

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. 06-61812-CIV-LENARD/TORRES

Commodity Futures Trading Commission

Plaintiff

v.

Financial Risk International, Inc.,
Financial Risk Management, Inc., and
Stephanie Ann Gallitano,

Defendants.

**CONSENT ORDER OF PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF AGAINST FINANCIAL RISK INTERNATIONAL,
INC., FINANCIAL RISK MANAGEMENT, INC. AND STEPHANIE ANN GALLITANO**

I. BACKGROUND

On December 4, 2006, Plaintiff Commodity Futures Trading Commission (“Commission”) filed a Complaint in the above captioned action against Financial Risk International, Inc. (“FRI”), Financial Risk Management, Inc. (“FRM”) and Stephanie Ann Gallitano (“Gallitano”) (collectively “Defendants”) seeking injunctive and other equitable relief for violations of the Commodity Exchange Act, as amended (the “Act”), 7 U.S.C. §§ 1 *et seq.*, and Commission Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2004). That same day, the Court entered an *Ex Parte Statutory Restraining Order to Freeze Assets and Preserve Books and Records and Order to Show Cause Regarding Preliminary Injunction* (“Statutory Restraining Order”).

On January 26, 2007, the Court entered a consent *Order of Preliminary Injunction* that, among other things, enjoined Defendants from violating Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 1.1(b) and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b) and 32.9(a) and (c).

The central allegation of the Commission's one-count Complaint is that the Defendants violated anti-fraud provisions of the Act and Regulations in connection with their solicitation of members of the general public to purchase foreign currency ("forex") options. Although the Defendants have not yet answered the Complaint, they filed a Motion to Dismiss arguing that the Complaint contains jurisdictional infirmities. The Defendants' Motion to Dismiss was denied without prejudice.

II. CONSENTS AND AGREEMENTS

Solely to effect settlement of the matters alleged in the Complaint in this action without a trial on the merits or any further judicial proceedings or presentation of additional evidence, the Defendants:

1. Consent to the entry of this *Consent Order of Permanent Injunction and Other Equitable Relief ("Consent Order")*;
2. Affirm that they have read and agreed to this *Consent Order* voluntarily, and that no threats, or promises other than as contained herein, have been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this *Consent Order*, other than as set forth specifically herein;
3. Acknowledge service of the Summons and Complaint;
4. Admit that this Court has personal jurisdiction over them and the subject matter of this action pursuant to Sections 2(c)(2)(C) and 6c of the Act, 7 U.S.C. §§ 2(c)(2)(C) and 13a-1;
5. Admit that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1;

6. Waive:

- a) Any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000), and Part 148 of the Regulations, 17 C.F.R. §§ 148.1, et seq. (2007), relating to, or arising from, this action;
- b) Any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act, 1996 HR 3136, Pub. L. 104-121, §§ 231-232, 110 Stat. 862-63 (Mar. 29, 1996) based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;
- c) Any claim of double jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing injunctions, a civil monetary penalty or any relief; and
- d) Any rights of appeal from this action;

7. Neither admit nor deny the allegations of the Complaint or the Findings of Fact and Conclusions of Law contained in this *Consent Order* except as to jurisdiction and venue, which they admit;

8. Agree that the allegations of the Complaint and the Findings of Fact and Conclusions of Law contained in this *Consent Order* shall be taken as true and correct and be given preclusive effect, without further proof, with respect to any proceeding in bankruptcy relating to any Defendant, any proceeding to enforce the terms of this *Consent Order*, or in any proceeding to revoke, restrict, or condition the registration of any of the Defendants pursuant to Section 8a of the Act, 7 U.S.C. § 12a(1), and/or Part 3 of the Regulations, 17 C.F.R. § 3.

9. Each of the Defendants agree to provide notice to this Court and to the Commission by mail, in the manner set forth in paragraph 88 below, of any bankruptcy proceeding filed by, on behalf of, or against any of the Defendants within five days of said filing

10. The FRI customers identified in Exhibit A, attached hereto and filed under seal, are those to whom restitution shall be paid under this *Consent Order*. Omission of any customer from Exhibit A shall in no way limit such customer from seeking recovery. Further, the amounts

payable to each customer identified in Exhibit A shall not limit any customer from proving that a greater amount is owed from the Defendants or any other person or entity, and nothing herein shall be construed in any way to limit or abridge or expand the rights of any customer that exist under federal, state or common law;

11. Agree that neither they nor any of their agents, servants, employees, contractors, representatives or attorneys shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or any Finding of Fact or Conclusion of Law in this *Consent Order* or creating, or tending to create, the impression that the Complaint or this *Consent Order* is without a factual basis; provided, however, that nothing in this provision shall affect the Defendants': (a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the Commission is not a party. The Defendants shall take all necessary steps to ensure that all of their agents, servants, employees, contractors, representatives under their direct or indirect authority or control and attorneys understand and comply with this agreement; and

12. Consent to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this *Consent Order*, to assure compliance with this *Consent Order* and for any purpose relevant to this action even if the Defendants now or in the future reside outside this jurisdiction.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court, being fully advised in the premises, finds that there is good cause for the entry of this *Consent Order* and that there is no just reason for delay. The Court therefore directs without a trial on the merits and without presentation of additional evidence or further judicial

proceedings, the entry of Findings of Fact, Conclusions of Law, and a permanent injunction and ancillary equitable relief pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, as set forth herein.

A. Findings of Fact

1. The Parties

13. **The Commodity Futures Trading Commission** is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act and the Regulations promulgated thereunder. The Act and the Regulations establish a comprehensive system for regulating the purchase and sale of commodity futures contracts and commodity options. One of the primary purposes of the Act and Regulations is consumer protection.

14. **Financial Risk International, Inc.** was incorporated in Florida on March 23, 2004, and was located at 2455 E. Sunrise Blvd, Suite 916, Ft. Lauderdale, Broward County, Florida. FRI solicited members of the general public to purchase and sell forex options. FRI was never registered with the Commission.

15. **Financial Risk Management, Inc.** was incorporated in Florida on March 23, 2004, and was located at 2455 E. Sunrise Blvd, Suite 916, Ft. Lauderdale, Broward County, Florida. FRM was a management company that was responsible for FRI's debts and shared offices, officers and employees with FRI. FRM was never registered with the Commission.

Stephanie Anne Gallitano resides in, Florida. Gallitano is a Director and was the incorporator and registered agent of both FRI and FRM. She ran the day-to-day operations of FRI, supervised the telephone solicitations by FRI employees, and directly solicited customers to trade forex options. Beginning in 1999 and continuing to August 2006, Gallitano has been

registered with the Commission as an associated person (“AP”) and/or principal of six different commodity firms.

2. FRI’s Fraudulent Solicitation of the Retail Public

16. Since at least March 2004 and continuing through April 2006 (the “relevant period”), FRI employees, including Gallitano, have engaged in fraudulent solicitation of more than 250 members of the retail public to open accounts and engage in speculative forex options trading.

17. To induce customers to open trading accounts, FRI employees, including Gallitano, engaged in cold-calling members of the retail public and knowingly or recklessly misrepresented the risks and rewards of trading forex options and failed to disclose material facts concerning, among other things:

- a) the likelihood that a customer would realize large profits from trading forex options;
- b) the risk involved in trading forex options; and
- c) FRI’s poor track record for trading forex options on behalf of customers.

18. FRI employees, including Gallitano, routinely misrepresented to existing and prospective customers the profit potential from trading forex options leading such customers to believe that they would likely realize large profits. For example, Gallitano told one customer that she had a “spread” strategy so that no matter which way the market moved he would make money. She told him that unless the market did not move at all, he would make money and that she told him he could not lose.

19. FRI employees, including Gallitano, also misrepresented to existing and prospective customers the risk associated with forex options trading leading such customers to believe that risk of loss could be limited or was virtually non-existent. In that regard, they failed to disclose in their solicitation of existing and prospective forex option customers the material facts that

more than 98% of FRI's customers sustained large losses trading forex options through FRI; and that during the relevant period, FRI's customers sustained at least \$3.1 million in losses.

20. In making these representations to existing and prospective customers, FRI employees, including Gallitano, also either knowingly or recklessly misrepresented the need for such customers to send in funds immediately so as not to miss what they indicated was a fleeting "investment opportunity" to make substantial profits.

21. In making their investment decisions, FRI customers relied on the misrepresentations and omissions of Gallitano and other FRI employees.

22. More than 1.6 million dollars in total commissions and fees were paid to FRI as a result of trading for FRI customers during relevant period.

3. Gallitano's Day-to-Day Responsibilities for FRI

23. Gallitano oversaw FRI's day-to-day operations, including hiring, firing, training and supervising employees; running the daily sales meetings; supplying FRI sales staff with leads on prospective customers and solicitation and training scripts; signing customer account opening documents on behalf of FRI; signing contractual agreements, including the Introducing Agreement between FRI and the futures commission merchant Worldwide Clearing, as the "President" of FRI; and engaging in settlements of customer complaints. Gallitano was a signatory on FRI's business bank account.

24. In addition to management responsibilities, Gallitano also took an active role in soliciting prospective FRI customers. She was known to some sales staff as the "loader." As such, FRI employees would refer customers and potential customers to Gallitano so that she could solicit additional funds. Gallitano not only knew about FRI's fraudulent sales solicitation practices and took no steps to prevent or correct them, she personally engaged in those fraudulent practices.

4. FRM's Role

25. FRM was a "management" company and was the vehicle used by Gallitano to direct FRI's day-to-day operations. Gallitano was the president and owner of FRM. As the management company, FRM was "responsible for the payment and satisfaction" of FRI's bills and debts. FRM was the tenant of record and occupied the same office space as FRI.

26. FRI employees' salaries were paid by FRM; FRI expenses were paid by FRM; and fees and commissions paid to FRI were deposited in FRM accounts.

5. Gallitano's Past Conduct

27. On July 21, 2005, the National Futures Association ("NFA") issued a complaint, charging Gallitano with, among other things, making deceptive and misleading sales solicitations, failing to diligently supervise employees and agents in the conduct of their commodity futures activities at Financial Risk Investments, a registered Introducing Broker, and failing to comply with a prior NFA order subjecting her to enhanced surveillance by the NFA. The prior NFA order referenced in the above cited NFA action resulted from an earlier NFA complaint filed against Gallitano charging her with, among other things, deceptive and misleading sales solicitations.

B. Conclusions of Law

28. This Court has jurisdiction over the subject matter of this action and all parties hereto pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, 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 of the Commission thereunder.

29. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. §13a-1(e) in that the Defendants are found in, inhabit, or transact business in this district, and the acts and

practices in violation of the Act and Regulations have occurred, are occurring, or are about to occur within this district, among other places.

30. Section 4c(b) of the Act, 7 U.S.C. § 6c(b), makes it unlawful to offer to enter into, enter into, or confirm the execution of, any transaction involving any commodity regulated under the Act that is of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty," contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

31. Regulations 32.9(a) and (c), 17 C.F.R. §§ 32.9(a) and (c), make it unlawful for any person directly or indirectly: (a) to cheat or defraud or attempt to cheat or defraud any person; and (c) to deceive or attempt to deceive any other person by any means whatsoever, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction.

32. Regulation 1.1(b), 17 C.F.R. § 1.1(b), in part, makes it unlawful in connection with forex transactions to, "directly or indirectly, or in connection with any account, agreement, contract or transaction . . . (1) To cheat or defraud or attempt to cheat or defraud any person; . . . or (3) Willfully to deceive or attempt to deceive any person by any means whatsoever" unless such person is, among other things, a Commission registered futures commission merchant.

33. During the relevant period, FRI employees, including Gallitano, violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 32.9(a) and (c), 17 C.F.R. § 32.9(a) and (c), in that they, in connection with offers to enter into, the entry of, or the confirmation of the execution of, commodity options transactions, they cheated, defrauded, or deceived, or attempted to cheat, defraud or deceive, other persons, by making false, deceptive or misleading representations of material facts and by failing to disclose material facts.

34. Beginning in March 2004 and continuing to July 2004, FRI employees, including Gallitano, violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulation 1.1(b), 17 C.F.R. § 1.1(b), in that, in connection with forex transactions with persons not Commission registrants, among other things, directly or indirectly, or in connection with any account, agreement, contract or transaction, cheated or defrauded or attempted to cheat or defraud persons, or willfully deceived or attempted to deceive such persons.

35. The foregoing acts, misrepresentations, omissions, and failures of FRI's employees, including Gallitano, occurred within the scope of their employment with FRI. FRI, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2, is therefore liable for its employees' violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 1.1(b), and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b) and 32.9(a) and (c).

36. Gallitano directly or indirectly controlled FRI and did not act in good faith or knowingly induced, directly or indirectly, FRI's violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) and Regulations 1.1(b), and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b) and 32.9(a) and (c). Gallitano therefore is a controlling person and is liable for these violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b).

37. Gallitano willfully aided and abetted FRI's violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 1.1(b), and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b) and 32.9(a) and(c), and committed numerous overt acts, as set forth in paragraphs 16 through 27 of the Findings of Fact, supra, all in furtherance of FRI's violations and thus willfully aided and abetted FRI in its fraud. Gallitano is therefore also liable for these violations pursuant to Section 13(a) of the Act, 7 U.S.C. § 13c(a).

38. FRM's employees, including Gallitano, willfully aided and abetted FRI's violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 1.1(b) and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b) and 32.9(a) and (c), and committed numerous overt acts, as set forth in paragraphs 25 and 26 of the Findings of Fact, supra, all in furtherance of FRI's violations and thus willfully aided and abetted FRI in its fraud. FRM is therefore liable for these violations pursuant to Section 13(a) of the Act, 7 U.S.C. §13c(a).

IV. ORDER OF PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

NOW THEREFORE, IT IS ORDERED THAT:

A. Permanent Injunction

39. The Defendants are permanently restrained, enjoined and prohibited from directly or indirectly offering to enter into, entering into, executing, confirming the execution of, or conducting business for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a commodity option contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe, in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b);

40. The Defendants are permanently restrained, enjoined and prohibited from directly or indirectly cheating or defrauding or attempting to cheat or defraud any persons; or deceiving or attempting to deceive any person by any means whatsoever, in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of any commodity option transaction, including options transactions in foreign currency subject to the Commission's jurisdiction set forth herein in violation of Section 4c(b) of the Act (7 U.S.C. § 6c(b)) and

Regulations 1.1(b) and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b) and 32.9(a) and (c), including but not limited to, the following:

- a) Misrepresenting the profit potential in forex option trading;
- b) Omitting the actual track record of their customers;
- c) Omitting or downplaying the risk involved in forex option trading; or
- d) Omitting any material fact necessary to make other facts disclosed not misleading.

41. The Defendants are further permanently restrained, enjoined and prohibited from engaging, directly or indirectly, in any activity related to trading in any commodity, as that term is defined in Section 1a(4) of the Act, 7 U.S.C. § 1a(4) ("commodity interest"), including but not limited to, the following:

- a) Trading on or subject to the rules of any registered entity as that term is defined by Section 1(a)(29) of the Act, as amended, 7 U.S.C. § 1a(29);
- b) Soliciting, receiving, or accepting any funds in connection with the purchase or sale of any commodity interest contract;
- c) Engaging in, controlling or directing the trading for any commodity interest account for or on behalf of themselves or any other person or entity, directly or indirectly, whether by power of attorney or otherwise;
- d) Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14 (a)(9), 17 C.F.R. § 4.14(a)(9), or acting as a principal, agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission, except as provided for in Regulation 4.14 (a)(9), 17 C.F.R. § 4.14(a)(9); and
- e) Engaging in any business activities related to commodity interest trading.

42. The injunctive provision of this *Consent Order* shall be binding upon Defendants, upon any person who acts in the capacity of officer, agent, employee, attorney, successor and/or assign of any of the Defendants and upon any person who receives actual notice of this *Consent Order*,

by personal service or otherwise, insofar as such person is acting in active concert or participation with any of the Defendants.

B. Restitution

43. Defendants shall pay restitution, jointly and severally, in the amount of \$3,100,000, plus post-judgment interest, provided that each Defendant's restitution obligation shall be capped in the following amounts:

- a) FRI \$3,100,000, plus post-judgment interest;
- b) FRM \$3,100,000, plus post-judgment interest; and
- c) Gallitano \$550,000, plus post-judgment interest.

44. Post-judgment interest shall accrue beginning on the date of entry of this *Consent Order* and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this *Consent Order* pursuant to 28 U.S.C. § 1961.

C. Appointment of Receiver and the Sale of Certain Real Property

45. Mark Silverio, Esquire of 400 5th Avenue South, Naples, Florida 34102 is appointed Receiver for the purpose of supervising the sale of certain real property owned by Gallitano, and/or held for her benefit by Charlene Johnson, and for the purpose of taking possession of the equity (if any) resulting from the sale of said property and transferring those funds (if any) to the Monitor appointed herein at paragraph 62.

46. Gallitano shall sell (and the Receiver shall supervise such sale) the following properties:
- a) certain real property situated in Broward County, Florida, viz: *Condominium Unit No. 826, in Building No. 8, of THE COLONNADES, a Condominium, according to the Declaration of Condominium thereof, as recorded in Official Records Book 39364, Page 1407, of the Public Records of Broward County, Florida; together with an undivided share in the common elements appurtenant thereto (parcel number 504105AE0480), commonly know as 826 NW 91st Terr., Plantation, Florida 33324;*
 - b) certain land situated in Hendry County, Florida, viz: *Lot 15 Block 2125 PORT LABELLE, UNIT 3, according to the plat thereof recorded in Plat Book 3, Page 73,*

of the Public Records of Hendry County, Florida (parcel number R41043290302125015.0) commonly known as 5019 NE TRADEWINDS CIR. Unit 3, Port Labelle, Florida, 33935;

- c) *certain land situated in Hendry County, Florida, viz: Lot 21, Block 2102, of PORT LA BELLE UNIT 3, according to the plat thereof as recorded in Plat Book 3, Page 73, of the Public Records of Hendry County, Florida (parcel number R41043290302102021.0) commonly known as 5005 W HUMMINGBIRD DRIVE WEST, Port La Belle, Florida, 33935; and*
- d) *residential acreage situated in Collier County, Florida, viz: the East 75 feet of the East 150 feet of Tract 40, of GOLDEN GATES ESTATES UNIT 92, according to the Plat thereof as recorded in Plat Book 5, Page 31, of the Public Records of Collier County, Florida (parcel tax ID number 0000041613760000) commonly known as Golden Gate Estates Unit # 92.*

(Hereinafter, collectively referred to as "Defendants' Real Estate.")

47. Within fifteen (15) days (or within such time as permitted by the Receiver in writing) of the date of entry of this *Consent Order*, the Defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, and any other person or entity served with a copy of this *Consent Order*, including, but not limited to, Gallitano's mother, Charlene Johnson, shall take all necessary steps, including but not limited to the execution of all necessary documents, to transfer to Gallitano title, custody, control and possession of Defendants' Real Estate and to transfer to Gallitano possession and custody of documents concerning the purchase, transfer of ownership, financing, rental, leasing, repair, and maintenance of the Defendants' Real Estate.

48. Subject to the Receiver's oversight and approval, Gallitano shall, within fifteen (15) days of the date of entry of this *Consent Order*, take those steps and engage those persons necessary for the purpose of listing and selling Defendants' Real Estate at market value. This obligation to sell shall not be deemed violated should any of Defendants' Real Estate be subject to a foreclosure action.

49. Subject to the Receiver's oversight and approval, Gallitano shall, within ninety (90) days of the date of entry of this *Consent Order*, enter contracts to sell Defendants' Real Estate at market value. If no offers to purchase any of the properties comprising Defendants' Real Estate at market value are made within ninety (90) days, the Receiver and Gallitano shall inform the Court, with notice to the parties, and seek sixty (60) day extensions as necessary to obtain offers at market value for such properties.

50. The Receiver shall not fail to approve and Gallitano shall not fail to accept reasonable offers to purchase Defendants' Real Estate.

51. For the purposes of this *Consent Order*, "proceeds from the sale of Defendants' Real Estate" is defined as the sale price of Defendants' Real Estate minus reasonable real estate commissions as well as debts owed to any bona fide lien-holder or taxing authorities.

52. The proceeds from the sale of Defendants' Real Estate shall be deposited into a checking account opened by the Receiver specifically to receive such proceeds (hereinafter: "Receivership Checking Account").

53. The Receiver shall preserve, hold and manage the proceeds of the sale of Defendants' Real Estate (hereinafter "Receivership Assets") and perform all acts necessary to preserve the value of the Receivership Assets.

54. The Receiver shall initiate, defend, compromise, adjust, intervene in, dispose of, or become a party to any actions or proceedings in state, federal or foreign court necessary to preserve or increase the Receivership Assets or to carry out his or her duties pursuant to this *Consent Order*.

55. During the pendency of the receivership ordered herein, the Defendants and all other persons and entities in active concert or participation with them, are prohibited from doing any

act or thing to interfere with the sale of Defendants' Real Estate and are prohibited from doing any act or thing to interfere with the Receiver taking control, possession, or management of the Receivership Assets; or to in any way interfere with the Receiver or the duties of the Receiver; or to interfere with the exclusive jurisdiction of this Court over the property and assets of the Defendants. This Paragraph does not stay the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's civil, criminal, police, statutory, or regulatory power.

56. The Receiver, subject to approval of the Court, is entitled to reasonable compensation for the performance of duties pursuant to this *Consent Order* by it and all personnel hired by the Receiver, including counsel to the Receiver, and is also entitled to the cost of actual out-of-pocket expenses incurred by them (the "Receivership fees and expenses").

57. Within ten (10) days of receipt of any proceeds from the sale of any of the properties comprising Defendants' Real Estate, the Receiver shall transfer to the Monitor, pursuant to the instructions set forth in paragraph 62 below, such proceeds minus an amount equal to the Receiver's estimate of its related Receivership fees and expenses, which amount it shall retain in the Receivership Checking Account until further order of the Court. In addition to the instructions set forth in paragraph 62, the Receiver's cover letter accompanying the transfer of proceeds to the Monitor shall specifically identify the property that was the source of the proceeds and the amount of estimated Receivership fees and expenses withheld.

58. The Receiver shall make to the Court and serve upon the parties periodic reports that shall state the status of the sale of Defendants' Real Estate and shall include the Receiver's requests for compensation of Receivership fees and expenses. The Receiver's first such report

shall be filed and served no more than sixty (60) days after the date of this *Consent Order* and, thereafter, every ninety (90) days.

59. The Receiver's requests for compensation of Receivership fees and expenses shall itemize the specific out-of-pocket expenses and the time and specific nature of services rendered by the Receiver and all personnel hired by the Receiver. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of this Court. The Commission shall have the opportunity to review and to object to each such request for compensation. Compensation approved by this Court shall be paid from funds held in the Receivership Checking Account and/or the Monitor's account described in paragraphs 62, 67, 68 below.

60. The Defendants' payment of their respective restitution and civil monetary penalty obligation under this *Consent Order* shall be neither increased nor decreased by compensation paid to the Receiver for Receivership fees and expenses.

61. The Receiver shall make its final report to the Court and the parties no more than thirty (30) days after the final sale of Defendants' Real Estate, wherein the Receiver shall make its final request for compensation of Receivership fees and expenses. Within thirty (30) days of the Court's approval or rejection of the final request for compensation, the Receiver shall transfer the full remaining balance of the Receivership Checking Account, including Receivership fees and expenses estimated by the Receiver but not approved by the Court, to the Monitor consistent with the instructions set forth in paragraph 57 above.

D. Monitor

1. Appointment of Monitor

62. To effect payment by Defendants of their respective restitution obligations, the receipt of certain other funds, and distribution of such funds including the distribution of restitution to Defendants' defrauded customers, the Court appoints the National Futures Association ("NFA") as Monitor ("Monitor"). The Monitor shall collect restitution payments and other funds, and make distributions as set forth below. The Monitor shall establish and designate an account for the "Financial Risk International, Inc. – Restitution Fund." Because the Monitor is not being specially compensated for these services, and these services are outside the normal duties of the Monitor, the Monitor shall not be liable for any action or inaction arising from his appointment as Monitor, other than actions involving fraud.

63. Defendants shall make restitution payments under this *Consent Order* in the name "Financial Risk International, Inc. – Restitution Fund" and shall send such restitution payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's, or bank money order, to Office of Administration, National Futures Association, 200 W. Madison Street #1600, Chicago, Illinois 60606-3447 under cover letter that identifies the paying Defendant and the name and docket number of this proceeding. The paying Defendant shall simultaneously transmit copies of the cover letter and the form of payment to (a) the Director, Division of Enforcement, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and (b) the Chief, Office of Cooperative Enforcement, at the same address.

64. The Monitor shall oversee Defendants' restitution obligation, and shall have discretion to determine the manner for distribution of funds in an equitable fashion to Defendants' customers

identified in Exhibit A to this *Consent Order*, as appropriate, or may defer distribution until such time as it deems appropriate. In the event that the amount of restitution payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative costs of the making a restitution distribution is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments set forth in Part IV.E., below.

2. Transfer of Frozen Assets, Court Registry Assets and Property Proceeds to Monitor

65. The Monitor shall, within thirty (30) days of entry of this *Consent Order*, take exclusive custody, control, possession and title of the contents of the Defendants' financial accounts currently frozen pursuant to this Court's *Statutory Restraining Order* and/or *Order of Preliminary Injunction*,

- a) Bank of America:- Stephanie Ann Gallitano, Account #xxxxxx7870;
- b) Wachovia: Financial Risk International, Account # xxxx3368; and Financial Risk Management, Account # xxxx3258; and
- c) Charles Schwab & Co., Inc.: Stephanie Ann Gallitano Account # xxxx-7409.

("Frozen Assets").

66. Subject to the provisions of paragraph 86 of this Order, and in the event that the Defendants have failed to disclose assets in their Financial Disclosure Statements (CFTC form 12), the Monitor shall take exclusive custody, control, possession and title to such undisclosed assets.

67. Within thirty (30) days of receiving this *Consent Order*, each financial institution listed above in paragraph 65 shall liquidate and release the funds contained in the accounts listed above in paragraph 65 and convey the funds, by wire transfer, to the account designated by the Monitor for the "Financial Risk International, Inc. – Restitution Fund", less any bank wire or

administrative fees. The Defendants and the financial institutions listed in paragraph 65 above shall cooperate fully and expeditiously with the Commission and Monitor in the liquidation and transfer of funds. At no time during the release, liquidation or wire of the funds shall the Defendants be given access to, or be provided with, any funds from these accounts.

68. The Monitor shall take exclusive custody, control, possession and title to the contents of account number 604700 in the Registry of the Court ("Court Registry Assets"). The Monitor shall deposit and maintain the Court Registry Assets in the account designated by the Monitor for the "Financial Risk International, Inc. – Restitution Fund."

69. Pursuant to paragraph 57 above the Monitor shall collect from the Receiver the proceeds of the sale of the Defendants' Real Estate. The Monitor shall deposit and maintain the proceeds of the sale of the Defendants' Real Estate in the account designated by the Monitor for the "Financial Risk International, Inc. – Restitution Fund."

3. Monitor's Handling of Frozen Assets, Court Registry Assets and Property Proceeds Transferred To It

70. The transfer of Frozen Assets pursuant to paragraphs 66-67 above shall be treated as a payment of restitution pursuant to paragraph 64 by the respective Defendant in whose account the assets were held.

71. The transfer of Court Registry Assets pursuant to paragraph 68 above shall be treated as a payment by Gallitano of restitution pursuant to paragraph 64 above.

72. The proceeds of the sale of the Defendants' Real Estate shall, upon receipt by the Receiver from the Monitor, shall: a) first be treated as payment by Gallitano of restitution; b) second, upon satisfaction of her restitution obligation, be treated as payment by Gallitano of her civil monetary penalty obligation set forth in paragraph 75 below, which the Receiver shall forward to the Commission following the instructions for civil monetary penalty payments set

forth in paragraphs 78-79, below; and c) third, upon Gallitano's satisfaction of her civil monetary penalty obligation, such excess sale proceeds shall be remitted by the Monitor to Gallitano.

E. Civil Monetary Penalty

73. FRI shall pay a civil monetary penalty ("CMP") in the amount of \$1,600,000, plus post-judgment interest.

74. FRM shall pay a CMP in the amount of \$130,000, plus post judgment interest.

75. Gallitano shall pay a CMP in the amount of \$213,000, plus post-judgment interest.

76. The Defendants' respective CMP obligations shall be due immediately upon entry of this *Consent Order*.

77. Post-judgment interest shall accrue beginning on the date of entry of this *Consent Order* and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this *Consent Order*, pursuant to 28 U.S.C. § 1961.

78. Defendants shall pay their respective CMP obligations by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
Attn: Marie Bateman – AMZ-300
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, Oklahoma 73169
Telephone: 405-954-6569

If payment is to be made by electronic funds transfer, the paying Defendant shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions.

79. The paying Defendant shall accompany payment of the penalty with a cover letter that identifies the paying Defendant and the name and docket number of the proceedings. The paying Defendant shall simultaneously transmit copies of the cover letter and the form of payment to the Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, and the Chief, Office of Cooperative Enforcement, at the same address.

F. Priority Of Monetary Sanctions And Partial Payments

80. All payments by Defendants pursuant to this *Consent Order* shall first be applied to satisfaction of their respective restitution obligations, consistent with the authority granted the Monitor in Part IV.D. above. After satisfaction of their restitution obligations, payments by Defendants pursuant to this *Consent Order* shall be applied to satisfy their respective CMP obligations.

81. Any acceptance by the Commission and/or Monitor of partial payment of Defendants' restitution obligations and/or CMP obligations shall not be deemed a waiver of the respective requirement to make further payments pursuant to this *Consent Order*, or a waiver of the Commission's and/or Monitor's right to seek to compel payment of any remaining balance.

G. Cooperation

82. Defendants shall cooperate fully with the Commission, and any government agency seeking to enforce the restitution and CMP provisions of this *Consent Order* by providing any requested information relating to their financial status including, but not limited to, income and earnings, assets, financial statements, asset transfers, and tax returns.

83. The Defendants shall cooperate fully with and assist the Monitor. The cooperation and assistance of the Defendants shall include, but not be limited to, promptly executing any

documents and providing any information to the Monitor that the Monitor deems necessary to exercising the authority and discharging the responsibilities of the Monitor under this *Consent Order*.

84. The Defendants shall cooperate fully with and assist the Receiver. The cooperation and assistance of the Defendants shall include, but not be limited to, promptly executing any documents and providing any information to the Receiver that the Receiver deems necessary to exercising the authority and discharging the responsibilities of the Receiver under this *Consent Order*.

H. Equitable Relief Provisions

85. The equitable relief provisions of this *Consent Order* shall be binding upon Defendants and any person who is acting in the capacity of officer, agent, employee, servant or attorney of Defendants, and any person acting in active concert or participation with Defendants who receives actual notice of this *Consent Order* by personal service or otherwise.

I. Miscellaneous Provisions

86. The sworn Financial Disclosure Statements (CFTC form 12) that have been executed by the Defendants and affirm and attest to the truth, accuracy and completeness of the Defendants' financial condition as set forth therein, are made part of this *Consent Order* and shall be filed and remain under seal until further order of this Court. The Court's approval of this *Consent Order* is expressly premised upon the Defendants' financial condition as represented in the attached Financial Disclosure Statements (CFTC form 12) which contain material information upon which the Commission relied in agreeing to the amount of the Defendants' payment obligation as stated in this *Consent Order*. If upon motion by the Commission, with notice and opportunity to be heard by the Defendants, this Court finds that any of the Defendants failed to

disclose any material asset, or materially misrepresented the value of any asset, or made any other material misrepresentation or omission regarding their financial condition, the Commission may request that the judgment herein against the Defendants be reopened for the purpose of increasing the amount of the payment obligation of the Defendants; provided, however, that in all other respects this *Consent Order* shall remain in full force and effect unless otherwise ordered by the Court; and provided further that proceedings instituted under this provision will be in addition to and not in lieu of any other civil or criminal remedies as may be provided by law, including any other proceedings that the Commission may initiate to enforce this *Consent Order*.

87. Upon entry of this *Consent Order*, any order entered in this proceeding freezing assets and/or prohibiting Defendants' transfer of funds or other property shall be lifted.

88. Notices: All notices required by this *Consent Order* shall be sent by certified mail, return receipt requested, as follows:

Notice to Commission: Richard Glaser, Associate Director
U.S. Commodity Futures Trading Commission
Division of Enforcement
1155 21st Street, NW
Washington, DC 20581

Notice To Defendants: Adam Shonsen, Esquire
1441 Brickell Avenue
Miami, FL 33131

Notice to the NFA: Office of Administration
National Futures Association
200 W. Madison St., #1600
Chicago, IL 60606-3447

Notice to Court-appointed Receiver: Mark Silverio, Esquire
400 5th Avenue South, Suite 301
Naples, Florida 34102

89. Entire Agreement, Amendments and Severability: This *Consent Order* incorporates all of the terms and conditions of the settlement among the parties. Nothing shall serve to amend or modify this *Consent Order* in any respect whatsoever, unless: (1) reduced to writing, (2) signed by all parties, and (3) approved by order of the Court. If any provision of this *Consent Order* or the application of any provision or circumstance is held invalid, the remainder of this *Consent Order* shall not be affected by the holding.

90. Counterparts and Facsimile Execution: This *Consent Order* may be executed by the parties in counterparts and by facsimile.

91. Invalidation: If any provision of this *Consent Order*, or if the application of any provisions or circumstances is held invalid, the remainder of this *Consent Order* and the application of the provisions to any other person or circumstance shall not be affected by the holding.

92. Waiver: The failure of any party hereto at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same or any other provision of this *Consent Order*. No waiver in one or more instances of the breach of any provision contained in this *Consent Order* shall be deemed to be or construed as a further or continuing waiver of such breach or waiver of the breach of any other provision of this *Consent Order*.

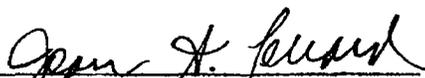
93. Jurisdiction: This Court shall retain jurisdiction of this matter to enforce compliance with this *Consent Order* and for all other purposes related to this action.

94. Authority: Gallitano hereby warrants that she is a Director of FRI and of FRM and that this *Consent Order* has been duly authorized by FRI and FRM and she has been duly empowered to sign and submit it on behalf of FRI and FRM.

95. Collateral Agreements: Defendants shall immediately notify the Commission if any of them makes any agreement with any customer/creditor obligating him to make payments outside of this *Consent Order*. Defendants shall also provide immediate evidence to the Court and to the Commission of any payments made pursuant to such agreement.

96. There being no just reason for delay, the Clerk of the Court is hereby directed to enter forthwith this *Consent Order of Permanent Injunction and Other Equitable Relief*.

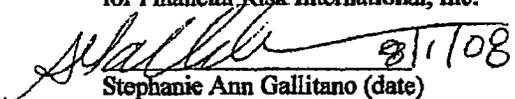
SO ORDERED, at Miami, Florida on this 1 day of Oct. 2008, at 4:40 P.M.

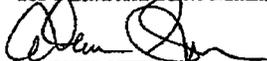

HONORABLE JOAN A. LENARD
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

 8/1/08
Stephanie Ann Gallitano (date)

Individually

 8/1/08
Stephanie Ann Gallitano (date)
for Financial Risk International, Inc.

 8/1/08
Stephanie Ann Gallitano (date)
for Financial Risk Management, Inc.

 9/18/08

Adam Shonsen, Esquire (date)
1441 Brickell Avenue
Miami, FL 33131
(305) 350-5100, (305) 982-0060 (fax)
Attorney for Stephanie Ann Gallitano,
Financial Risk International, Inc., and
Financial Risk Management, Inc.

 9/18/08
Matthew Elkan (date)
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581
(202) 418-5389
melkan@cftc.gov
(202) 418-5531 (fax)
Attorney for Plaintiff
Commodity Futures Trading Commission