UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

vs. CASE NO. 8:03-CIV-54-T-17-TGW

INVESTORS FREEDOM CLUB,
L.C., et al.,

Defendants.
_____/

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on the report and recommendation (R&R) issued by Magistrate Judge Thomas G. Wilson on March 2, 2005 (Docket No. 69). The magistrate judge recommended that defendants William A. Folino, Investors Freedom Club, and George Belanger be ordered to pay, jointly and severally, restitution and prejudgment interest totaling $2,316,859.57; that relief defendant Tina Folino be jointly and severally liable for $378,894.60 of that restitution as disgorgement of her ill-gotten gains; that defendant William A. Folino be ordered to pay a civil monetary penalty of $2,316,859.57, with that amount subject to reduction by fifty cents for each dollar of restitution paid in the first year following entry of judgment and twenty-five cents for each dollar of restitution paid during the second year following entry of judgment; and that defendant George Belanger be ordered to pay a civil monetary penalty of $120,000.00.

Pursuant to Rule 6.02, Rules of the United States District Court for the Middle District of Florida, the parties had ten (10) days after service to file written objections to the proposed findings and recommendations, or be barred from attacking the factual findings on appeal. **Nettles v. Wainwright**, 677 F.2d 404 (5th Cir. 1982) (en banc). Objections were due to be filed by March 18, 2005, but to date none have been filed.

STANDARD OF REVIEW

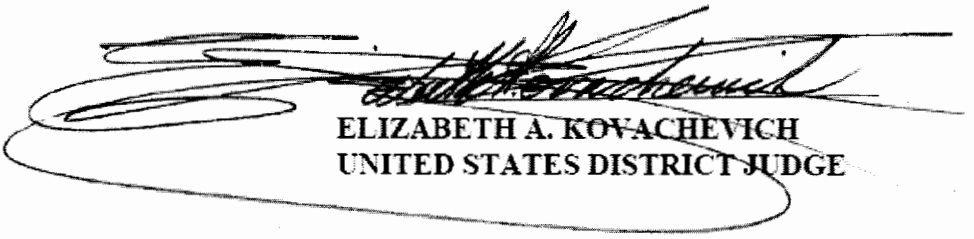
When a party makes a timely and specific objection to a finding of fact in the report and recommendation, the district court should make a de novo review of the record with respect to that factual issue. 28 U.S.C. § 636(b)(1); **U.S. v. Raddatz**, 447 U.S. 667 (1980); **Jeffrey S. v. State Board of Education of State of Georgia**, 896 f.2d 507 (11th Cir. 1990). However, when no timely and specific objections are filed, case law indicates that the court should review the findings using a clearly erroneous standard. **Gropp v. United Airlines, Inc.**, 817 F.Supp. 1558, 1562 (M.D. Fla. 1993).

The Court has reviewed the report and recommendation and made an independent review of the record. Upon due consideration, the Court concurs with the report and recommendation. Accordingly, it is

ORDERED that the report and recommendation, dated March 1, 2005 (Docket No. 69) be **adopted** and **incorporated by reference**; the Clerk of Court **shall enter** a final judgment for the plaintiff as follows: defendants William A. Folino, Investors Freedom Club, and George Belanger are **ordered** to pay, jointly and severally, restitution and prejudgment interest totaling $2,316,859.57; relief defendant Tina Folino is **ordered** to be jointly and severally liable for $378,894.60 of that restitution as disgorgement of her ill-gotten gains; defendant William A. Folino is **ordered** to pay a civil monetary penalty of $2,316,859.57, with that amount subject to reduction by fifty cents for each dollar of restitution paid in the first year following entry of judgment and twenty-five cents for each dollar of restitution paid

during the second year following entry of judgment; and defendant George Belanger is **ordered** to pay a civil monetary penalty of $120,000.00. The Clerk of Court is further **directed** to close this case and terminate any other pending motions.

DONE and ORDERED in Chambers, in Tampa, Florida, this 30th day of March, 2005.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to:
All parties and counsel of record
Assigned Magistrate Judge