



entry of findings of fact and conclusions of law in this action pursuant to Rule 52 of the Federal Rules of Civil Procedure. In addition, Valletta waives all claims which Valletta may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (1994) and 28 U.S.C. § 2412 (1994), as amended by Pub. L. No. 104-121, §§ 231-32, 110 Stat. 862-63, and Part 148 of the Regulations, 17 C.F.R. §§ 148.1, *et seq.* (2000), relating to, or arising from, this action. Furthermore, Valletta waives any claim of Double Jeopardy 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.

Valletta also consents to the continued jurisdiction of the Court for the purpose of enforcing the terms and conditions of this Order. Valletta further affirms that he has consented to this Order voluntarily, and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce Valletta to consent to this Order, other than as set forth specifically herein.

Valletta, by consenting to the entry of this Order, neither admits nor denies any of the allegations of the Complaint except as to jurisdiction and venue. By this language, Valletta agrees that neither Valletta nor any employees, agents or representatives of Valletta acting under his authority or control shall take any action or make any public statements denying, directly or indirectly, any allegation in the Complaint or creating, or tending to create, the impression that the Complaint is without factual basis; provided, however, that nothing in this provision affects Valletta's (i) testimonial obligations, or (ii) Valletta's right to take legal positions in other proceedings to which the Commission is not a party. Valletta will undertake all steps necessary to assure that all of his agents and employees understand and comply with this agreement.

Valletta acknowledges and agrees that the Court is not imposing a civil monetary penalty pursuant to 7 U.S.C. § 13a-1(d)(1) conditioned upon the accuracy and completeness of Valletta's

sworn representations to the Commission concerning his assets, income, liabilities, and net worth, as described in his sworn Statement of Financial Condition dated September 1, 2000, and in other documents submitted by Valletta in connection with the aforesaid Statement of Financial Condition. Valletta further consents that if, at any time following the entry of this Order, the Commission obtains information indicating that Valletta's representations to the Commission concerning his financial condition made in or in connection with his sworn Statement of Financial Condition dated September 1, 2000, were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission, at its sole discretion, may file a petition with the Court for an order imposing a civil monetary penalty. In connection with any such petition, the only issues shall be whether the financial information provided by Valletta was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of civil monetary penalty to be imposed. In any such petition, the Commission may move the Court to consider all available remedies, including, but not limited to, ordering Valletta to pay funds or assets, or imposing sanctions for contempt of the Court's Final Judgment, and the Commission may also request additional discovery as part of such a petition. Valletta may not, by way of defense to such petition, challenge the validity of this Order or a final judgment herein, contest the allegations in the Complaint, or assert that payment of a civil monetary penalty should not be ordered.

Being fully advised in the premises, but prior to adjudicating the facts, the Court finds that there is good cause for the entry of this Order. This Order fully disposes of all controverted issues between the Commission and Valletta. Pursuant to Federal Rule of Civil Procedure 52, there is no just reason to delay entry of the Consent Order.

THEREFORE, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, IT IS ORDERED THAT:

Valletta and any person insofar as he or she is acting in the capacity of officer, agent, servant, employee, or attorney of Valletta, and persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are ENJOINED, from directly or indirectly:

1. violating Section 4k(1) of the Act, 7 U.S.C. § 6k, by:
  - (i) allowing any person to be associated with an introducing broker (“IB”) as a partner, officer, employee, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation or acceptance of customers’ orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under the Act as an associated person (“AP”) of such IB and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked; and
  - (ii) allowing an IB to permit such a person to become or remain associated with it in any such capacity if such IB knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked;
2. violating Section 4k(5) of the Act, 7 U.S.C. § 6k(5), by allowing any registrant to permit a person to become or remain an AP of such registrant, if the registrant knew or should have known of facts regarding such AP that are set forth as statutory disqualifications in Section 8a(2) of the Act, 7 U.S.C. § 12a(2), unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed;
3. violating Section 4f(a) of the Act, 7 U.S.C. § 6f(a), which requires that any person desiring to register as an IB must be registered upon application to the Commission, by:
  - (i) failing to ensure that the application be made in such form and manner as prescribed by the Commission;
  - (ii) failing to provide such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged, including in the case of an application of an IB, the names and

addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and of such officers, directors, and stockholders, if a corporation, as the Commission may direct; and

- (iii) failing to continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to such person's business as the Commission may require;
- 4. violating Section 3.10(a)(2)(i) of the Regulations, 17 C.F.R. § 3.10(a)(2)(i), which provides, in relevant part, that each CFTC Form 7-R (entitled "Application for registration as a Futures Commission Merchant, IB, Commodity Trading Advisor, Commodity Pool Operator, Leverage Transaction Merchant and Application for NFA Membership") must be accompanied by a CFTC Form 8-R (entitled "Application for registration and special registration as an AP and Floor Broker and Principals' biographical supplement to Form 7R and Application for NFA Membership"), completed in accordance with the instructions and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association ("NFA");
- 5. aiding and abetting violations of the Commission order dated November 22, 1996 issued in *In the Matter of American Futures Group, Inc., George J. Perk, Thomas G. Reeves and Joseph J. Marchiano*, CFTC Docket No. 95-15 (the "Commission Order");
- 6. knowingly violating or willfully aiding and abetting any violation of any other order of the Commission; and
- 7. taking any action or make any public statement denying, directly or indirectly, any findings or conclusions in the Order, or creating, or tending to create, the impression that the Order is without a factual basis; provided, however, that nothing in this provision affects Valletta's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party; Valletta shall take all steps necessary to ensure that his agents or employees, if any, understand and comply with this undertaking.

IT IS FURTHER ORDERED THAT:

Valletta and any person insofar as he or she is acting in the capacity of officer, agent, servant, employee, or attorney of Valletta, and persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are ENJOINED, from directly or indirectly:

seeking registration or claiming exemption from registration with the Commission in any capacity, except as provided for in Section 4.14(a)(9), or acting in a registered capacity, including in a capacity exempt from registration under the Act or the Regulations, except as provided for in Section 4.14(a)(9), for a period of two years from the date of the Order.

IT IS FURTHER ORDERED THAT no civil monetary penalties shall be imposed against Defendant Valletta; provided, however, that if at any time following the entry of this Order the Commission obtains information indicating that Valletta's representations to the Commission concerning his financial condition made in his Statement of Financial Condition dated September 1, 2000, were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission, at its sole discretion, may file a petition with this Court for an order imposing a civil monetary penalty. In connection with any such petition, the only issues shall be whether the financial information provided by Valletta was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of civil monetary penalty to be imposed. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Valletta to pay funds or assets, or imposing sanctions for contempt of this Order, and the Commission may also request additional discovery as part of such a petition. Valletta may not, by way of defense to such petition, challenge the validity of his consent to the entry of this Order, contest the allegations in the Complaint, or assert that payment of a civil monetary penalty should not be ordered.

Upon being served with copies of this Order after entry by the Court, Defendant

Valletta shall sign acknowledgements of such service and serve such acknowledgements on the Commission within seven (7) days.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this cause to assure compliance with this ORDER OF PERMANENT INJUNCTION.

DONE AND ORDERED, this 9th day of November, 2000.

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HON. PATRICIA SEITZ  
UNITED STATES DISTRICT JUDGE

Consented to and approved for entry:

COMMODITY FUTURES TRADING  
COMMISSION

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