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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 COMMODITY FUTURES TRADING)
COMMISSION,)
11) Case No. 01-06907
12)
Plaintiff,) COMPLAINT FOR INJUNCTIVE AND
13) OTHER EQUITABLE RELIEF AND
vs.) FOR CIVIL PENALTIES UNDER THE
14) COMMODITY EXCHANGE ACT, AS
FINTREX, INC., a California) AMENDED, 7 U.S.C. §§ 1-25
15 corporation; ARMAN OVSEPYAN, an)
individual; and LYTRESSE M. FOX)
16 a.k.a. LISA M. FOX, an)
individual;)
17 Defendants.)

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19 I.

20 **JURISDICTION AND VENUE**

21 1. Section 2(c)(2)(B)(i) and (ii) of the Commodity
22 Exchange Act, 7 U.S.C. § 2 (2001) (corresponding to the Commodity
23 Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106-
24 554, 114 Stat. 2763), grants plaintiff, the Commodity Futures
25 Trading Commission ("Commission"), jurisdiction over certain
26 transactions in foreign currency that are contracts for the sale
27 of a commodity for future delivery, including the transactions
28 alleged in this Complaint. This Court has jurisdiction over this

1 action pursuant to Section 6c of the Commodity Exchange Act, 7
2 U.S.C. § 13a-1 (1994) (amended 2000) which authorizes the
3 Commission to seek injunctive relief against any person whenever
4 it shall appear that such person has engaged, is engaging, or is
5 about to engage in any act or practice constituting a violation
6 of any provision of the Commodity Exchange Act or any rule,
7 regulation or order thereunder.

8 2. Venue properly lies with this Court pursuant to Section
9 6c(e) of the Commodity Exchange Act, 7 U.S.C. § 13a-1(e)
10 (1994) (amended 2000), in that Defendants are found in, inhabit,
11 or transact business in this District, and the acts and practices
12 in violation of the Commodity Exchange Act have occurred, are
13 occurring, or are about to occur, within this District, among
14 other places.

16 II.

17 SUMMARY

18 3. From December 21, 2000 to the present, Defendants
19 Fintrex, Inc. ("Fintrex"), Arman Ovsepyan ("Ovsepyan") and
20 Lytresse M. Fox a.k.a. Lisa M. Fox ("Fox") (collectively, the
21 "Defendants") have solicited and obtained funds from retail
22 investors for the purpose of trading illegal instruments in off-
23 exchange foreign currency futures contracts. Because the
24 transactions are not consummated on or subject to the rules of a
25 contract market designated by the Commission, or consummated on a
26 registered derivative transactions execution facility, Defendants
27 have violated Section 4(a) of the Commodity Exchange Act, 7
28 U.S.C. § 6(a) (1994) (amended 2000).

1 4. Accordingly, pursuant to Section 6c of the Commodity
2 Exchange Act, 7 U.S.C. § 13a-1 (1994) (amended 2000), Plaintiff
3 brings this action to enjoin the unlawful acts and practices of
4 Defendants. In addition, Plaintiff seeks civil monetary
5 penalties in the amount of not more than the higher of \$120,000
6 for each violation or triple the monetary gain to Defendants for
7 each violation of the Commodity Exchange Act, disgorgement of
8 Defendants' ill-gotten gains, restitution to customers,
9 prejudgment interest and such other relief as this Court may deem
10 necessary or appropriate.

11 5. Unless enjoined by this Court, Defendants are likely to
12 continue to engage in the acts and practices alleged in this
13 Complaint, as more fully described below.

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15 **III.**

16 **THE PARTIES**

17 6. Plaintiff Commission is an independent federal
18 regulatory agency that is charged with responsibility for
19 administering and enforcing the provisions of the Commodity
20 Exchange Act, 7 U.S.C. §§ 1-25 (1994) (amended 2000).

21 7. Defendant Fintrex was incorporated in California on
22 March 31, 1998. It maintains its principal place of business at
23 541 W. Colorado Boulevard, Suite 202, Glendale, California 91204.
24 It is engaged in the business of trading foreign currency futures
25 contracts on behalf of the retail public. It has never been
26 registered with the Commission in any capacity.

27 8. Defendant Ovsepyan is Fintrex' General Manager. He is
28 in charge of Fintrex' "training" program, customer solicitations,

1 and day-to-day financial affairs. He has never been registered
2 with the Commission in any capacity.

3 9. Defendant Fox is Fintrex's General Manager/Senior
4 Broker. She conducts Fintrex's trading activities. She has
5 never been registered with the Commission in any capacity.

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7 **IV.**

8 **FACTUAL BACKGROUND**

9 10. From December 21, 2000 to the present, the Defendants
10 have conducted business out of Fintrex' Glendale, California
11 office for the purpose of selling foreign currency futures
12 contracts to the retail public.

13 11. Fintrex obtains its customers by placing classified ads
14 in the "Jobs Offered" section of the *Los Angeles Times* and in
15 other publications available to the general public. The ads in
16 the *Los Angeles Times* offer "free training" to persons interested
17 in "manag[ing] foreign currency accounts" or acting as "currency
18 traders."

19 12. Persons who respond to the ads are invited to Fintrex'
20 office, where Ovsepyan oversees two weeks of training for them to
21 learn how to trade foreign currency. Upon completion of the
22 training, Ovsepyan solicits the "trainees" to open personal
23 accounts at Fintrex in order to speculate in foreign currency
24 with their own money. Fintrex seeks initial investments as
25 small as \$3,000 in these personal accounts. Ovsepyan has
26 customers sign Fintrex's standard customer agreements.

27 13. Customers commence their trading by placing orders with
28 Fox, who conducts the trading activities. Fox receives the

1 orders and quotes prices. If the customer accepts the price, Fox
2 completes a transaction ticket to confirm the sale and time
3 stamps it.

4 14. Fintrex places automatic "hedge" positions in customer
5 accounts when the value of an open position has declined to the
6 point where there is insufficient margin in the account.
7 Ovsepyan tells customers that an unidentified "dealer" must
8 automatically open another position to hedge against greater loss
9 if the customer has insufficient margin in the account. However,
10 the effect of the automatic "hedge" positions is more detrimental
11 to customers than the usual practice of outright liquidation of
12 under-margined positions, since customers are charged an
13 additional commission for the "hedged" trade, plus interest on
14 the open position.

15 15. The foreign currency contracts that Fintrex markets
16 concern the purchase or sale of commodities for future delivery
17 at prices or using pricing formulas that are established at the
18 time the contracts are initiated, and may be fulfilled through
19 offset, cancellation, cash settlement or other means to avoid
20 delivery.

21 16. The defendants market these contracts to the general
22 public. The customers who purchase these futures contracts have
23 no commercial need for the foreign currency. Instead, customers
24 enter into these transactions to speculate and profit from
25 anticipated price fluctuations in the markets for these
26 currencies.
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1 17. Customers do not anticipate taking -- and do not take -
2 - delivery of the foreign currencies they purchase as a
3 consequence of these investments. Once the market moves in a
4 favorable direction, a customer expects to liquidate his or her
5 investment by authorizing the sale of the contract and taking the
6 profits.

7 18. Customers do not negotiate individual purchase
8 agreements with Fintrex. The rules for margin calls, and other
9 terms and conditions of Fintrex' contracts, as set by Fintrex,
10 are standardized.

11 19. Fintrex does not conduct its foreign currency futures
12 transactions on or subject to the rules of a board of trade that
13 has been designated by the Commission as a contract market, nor
14 are Fintrex's transactions executed or consummated by or through
15 a member of such a contract market. Fintrex does not conduct its
16 transactions on a facility registered as a derivatives
17 transaction execution facility.

18 20. Section 2(c)(2)(B)(i) and (ii) of the Commodity
19 Exchange Act, 7 U.S.C. § 2 (2001) (corresponding to the Commodity
20 Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106-
21 554, 114 Stat. 2763) provides that the Commission shall have
22 jurisdiction over an agreement, contract or transaction in
23 foreign currency that is a sale of a commodity for future
24 delivery, so long as the contract is "offered to, or entered into
25 with, a person that is not an eligible contract participant"
26 unless the counter-party, or the person offering to be the
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1 counter-party, is a regulated entity, as defined in the Commodity
2 Futures Modernization Act.

3 21. Section 1a(12)(A)(xi) of the Commodity Exchange Act, 7
4 U.S.C. § 1 (2001) (corresponding to the Commodity Futures
5 Modernization Act of 2000, Appendix E of Pub. L. No. 106-554, 114
6 Stat. 2763) defines an eligible contract participant as an
7 individual who has total assets in excess of: a) \$10 million; or
8 b) \$5 million and who enters the transaction to manage the risk
9 associated with the asset he owns. At least some, if not all, of
10 the foreign currency futures transactions alleged herein were
11 offered to or entered into with persons who were not eligible
12 contract participants.

13 22. Fintrex is not a proper counter-party for retail
14 foreign currency transactions, and therefore the Commission has
15 jurisdiction over the transactions in retail foreign currency
16 alleged herein.

17
18 **v.**

19 **VIOLATION OF SECTION 4(a) OF THE COMMODITY EXCHANGE ACT, 7**
20 **U.S.C. § 6(a): OFFER AND SALE OF COMMODITY FUTURES CONTRACTS**
21 **NOT CONDUCTED ON A BOARD OF TRADE WHICH HAS BEEN DESIGNATED**
22 **AS A CONTRACT MARKET**

23 23. Plaintiff realleges paragraphs 1 through 22, above, and
24 incorporates them by reference herein.

25 24. Since at least December 21, 2000, and continuing to the
26 present, Defendants have offered to enter into, entered into,
27 executed, confirmed the execution of, or conducted an office or
28 business in the United States for the purpose of soliciting,

1 accepting any order for, or otherwise dealing in transactions in,
2 or in connection with, a contract for the purchase or sale of a
3 commodity for future delivery when: (a) such transactions have
4 not been conducted on or subject to the rules of a board of trade
5 which has been designated by the Commission as a contract market
6 for such commodity, and (b) such contracts have not been executed
7 or consummated by or through a member of such contract market, in
8 violation of Section 4(a) of the Commodity Exchange Act, 7 U.S.C.
9 § 6(a) (1994) (amended 2000).

10 25. Each foreign currency futures transaction not conducted
11 on a designated contract market made during the relevant time
12 period, including but not limited to those conducted by the
13 Defendants as specifically alleged herein, is alleged as a
14 separate and distinct violation of Section 4(a) of the Commodity
15 Exchange Act, 7 U.S.C. § 6(a) (1994) (amended 2000).

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18 **VI.**

19 **RELIEF REQUESTED**

20 WHEREFORE, Plaintiff Commodity Futures Trading Commission
21 respectfully requests that this Court, as authorized by Section
22 6c of the Commodity Exchange Act, 7 U.S.C. § 13a-1 (1994) (amended
23 2000) and pursuant to the Court's equitable powers, enter:

- 24 1. an order of preliminary injunction and an order of
25 permanent injunction prohibiting Defendants Fintrex,
26 Inc., Arman Ovsepyan, and Lytresse M. Fox a.k.a. Lisa
27 M. Fox and any other person or entity associated with
28 them, including any successor thereof, from engaging in

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conduct violative of Section 4(a) of the Commodity Exchange Act, 7 U.S.C. § 6(a) (1994) (amended 2000);

2. an order directing Defendants Fintrex, Inc., Arman Ovsepyan, and Lytresse M. Fox a.k.a. Lisa M. Fox and any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constituted violations of the Commodity Exchange Act, as described herein, and interest thereon from the date of such violations;

3. an order directing Defendants Fintrex, Inc., Arman Ovsepyan, and Lytresse M. Fox a.k.a. Lisa M. Fox to make full restitution to every customer whose funds were received by them as a result of acts and practices which constituted violations of the Commodity Exchange Act, and interest thereon from the date of such violations;

4. an order directing Defendants Fintrex, Inc., Arman Ovsepyan, and Lytresse M. Fox a.k.a. Lisa M. Fox to pay a civil penalty in the amount of not more than the higher of \$120,000 for each violation or triple the monetary gain to Defendants for each violation of the Commodity Exchange Act;

5. an order requiring Defendants Fintrex, Inc., Arman Ovsepyan, and Lytresse M. Fox a.k.a. Lisa M. Fox to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2); and

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6. such other and further remedial ancillary relief as the
Court may deem just and proper.

Dated: August 9, 2001

Commodity Futures Trading
Commission

John T. Wise
Attorney for Plaintiff