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**FILED**  
FEB 26 2001  
CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION  
BY [Signature] DEPUTY

**ENTERED**  
FEB 28 2001  
CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA OFFICE  
BY [Signature] DEPUTY

P-SEND

Attorneys for Plaintiff  
Commodity Futures Trading Commission

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ORIGINAL

COMMODITY FUTURES TRADING  
COMMISSION,

Case No SACV 00-940 (DOC) (Eex)

Plaintiff,

DEFAULT JUDGMENT AND  
ORDER OF PERMANENT INJUNCTION

v.

RABB SABIN, an individual, and  
ART SMITH, an individual,

DATE: February 26, 2001  
TIME: 8 30 a.m  
PLACE: Courtroom 9D

Defendants.

**DEFAULT JUDGMENT AND ORDER OF PERMANENT INJUNCTION**

Plaintiff Commodity Futures Trading Commission ("CFTC") having commenced this  
action in September 2000, by filing its complaint ("Complaint") for injunctive and other equitable

- Docketed
- Copies NTC Sent
- JS - 5 / JS - 6
- JS - 2 / JS - 3
- CLSD

**ENTER ON ICMS**  
FEB 28 2001

1 relief and for the imposition of civil monetary penalties, charging defendants Rabb Sabin ("Sabin")  
2 and Art Smith, with violating the Commodity Exchange Act, as amended, 7 U.S.C. §§ 1-28 (the  
3 "Act") and CFTC Regulations promulgated thereunder, and following Sabin's and Smith's waiver  
4 of service of summons and acknowledgement of having received a copy of the Complaint, and  
5 following the entry of a Stipulation and Order of Preliminary Injunction against Sabin and Smith,  
6 and following Sabin's and Smith's failure to plead or otherwise defend within the time provided by  
7 the Federal Rules of Civil Procedure, and following the Clerk's entry of a Default against Sabin and  
8 Smith pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and the CFTC having  
9 properly filed and served upon Sabin and Smith a Notice of Motion in support of the CFTC's  
10 application for Entry of a Default Judgment by Order of Permanent Injunction against Sabin and  
11 Smith, the Court having found that, pursuant to Federal Rule of Civil Procedure 55, Sabin and  
12 Smith have failed to answer the Complaint or otherwise defend against the CFTC's action, and the  
13 Court having further found that this Court has jurisdiction over Sabin and Smith and over the  
14 subject matter of this action and the jurisdiction to grant the relief requested by the CFTC, and the  
15 Court being fully advised in the premises, and Sabin and Smith having failed to respond to the  
16 CFTC's motion;

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20 **I.**

21 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the CFTC have  
22 judgment against Sabin and Smith

23 **II.**

24 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, pursuant to Section  
25 6c(c) of the Act, 7 U.S.C §13a-1(c), that Sabin and/or Smith, their officers, agents, servants,  
26 employees, attorneys, and those persons in active concert or participation with them who receive  
27 actual notice of this Order by personal service or otherwise, including facsimile, and each of them,  
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1 be and hereby are permanently restrained and enjoined from, directly or indirectly

2  
3 (1) Cheating, defrauding or deceiving or attempting to cheat, defraud or deceive  
4 other persons, in or in connection with an offer to enter into, the entry into, the  
5 confirmation of the execution of, or the maintenance of, any commodity option  
6 transaction, in violation of Section 4c(b) of the Commodity Exchange Act (the  
7 "Act") and Commission Regulation 33.10, 17 C.F.R. § 33.10; and  
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9  
10 (2) While operating as a Commodity Trading Adviser, employing any device,  
11 scheme, or artifice to defraud, or engaging in any transaction, practice, or course of  
12 business which operates as a fraud or deceit upon, any client or prospective client by  
13 use of the mails or any means or instrumentality of interstate commerce, in violation  
14 of Section 4o(1) of the Act, 7 U.S.C. § 6o(1), and Commission Regulation 4.41(a)  
15 and (b), 17 C.F.R. § 4.41(a) and (b), and  
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18 **III.**

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that Sabin and/or Smith,  
20 jointly and severally, shall pay the sum of \$384,771.25, plus pre-judgment and post-judgment  
21 interest thereon, in restitution to their customers and clients, in accordance with further orders of  
22 this Court  
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24 **IV.**

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Sabin shall pay a  
26 civil monetary penalty pursuant to Section 6c(d) of the Act of ~~\$1,154,313.75~~ <sup>\$50,000</sup>, ~~triple his monetary~~  
27 ~~gain from his illegal activities.~~  
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V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Smith shall pay a  
civil monetary penalty pursuant to Section 6c(d) of the Act of ~~\$1,154,313.75~~, ~~triple his monetary~~  
~~gain from his illegal activities.~~ <sup>\$50,000.</sup>

~~VI.~~

~~IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Sabin and/or Smith,~~  
~~jointly and severally, shall pay disgorgement in the amount of \$384,771.25, representing a~~  
~~monetary gain from their illegal conduct alleged in the Complaint, plus pre-judgment and post-~~  
~~judgment interest thereon, on behalf of their customers and clients in accordance with further orders~~  
~~of this Court.~~

VII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall  
retain jurisdiction over this action for all purposes, including, but not limited to, implementing and  
enforcing the terms and conditions of this Default Judgment and Order of Permanent Injunction.

VIII.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the CFTC is entitled  
to its costs and disbursements in this matter as the prevailing party

IX.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there being no just  
reason for delay and now that the claims of all parties have been fully resolved and adjudicated, the

1 Clerk of the Court is hereby directed to enter Final Judgment pursuant to Rule 54(b) of the Federal  
2 Rules of Civil Procedure

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4 IT IS SO ORDERED.  
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7 Dated: February 26, 2001 David O. Carter

8 David O. Carter

9 UNITED STATES DISTRICT JUDGE  
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