

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COMMODITY FUTURES TRADING COMMISSION, :

Plaintiff, :

-v.- :

02 Civ. 5497 (GEL)

ORDER

INTERNATIONAL FINANCIAL SERVICES (NEW
YORK), INC., INTERNATIONAL FINANCIAL
SERVICES (NEW YORK), LLC, JOHN WALKER
ROBINSON, and CHAN KOW LAI a/k/a WILSON LAI, :

Defendants, :

SOCIEDADE COMERCIAL SIU LAP LIMITADA, :

Relief Defendant. :

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GERARD E. LYNCH, District Judge:

By Opinion and Order dated May 6, 2004, the Court granted plaintiff's motion for summary judgment. CFTC v. Int'l Fin. Servs. (N.Y.), Inc., No. 02 Civ. 5497, 2004 WL 1048241 (S.D.N.Y. May 7, 2004). Today, the Clerk of the Court entered judgment in accordance with that Order.

By letter dated May 13, 2003, the Court-appointed Receiver submitted three proposed asset allocation plans for the distribution of defendants' assets to the victims of defendants' fraud. On August 13, 2003, the Court preliminarily approved Plan One, subject to comments and objections from the victims to be post-marked no later than September 30, 2003. The Court received only three objections.

First, it has been suggested that a new class be identified, comprised of Historic Investors who advised the Government of defendants' fraud, and that members of this class participate in the *pro rata* distribution of defendants' assets. The costs of identifying the members of this class and administering this modification to the Plan would be incommensurate with the benefit to be derived from providing some reward to informers. Accordingly, this objection is rejected.

Second, one Current Investor, whose account became open and available to trade on July 17, 2002, requested that he (and presumably others similarly situated) be reclassified as a New Investor because IFS Inc. never in fact traded for his account. Fairness dictates that all accounts opened and available to trade be treated the same. Like Current Investors who traded, Current Investors who never traded also deposited funds, these funds cleared IFS Inc.'s account, and account numbers were officially assigned. That IFS Inc.'s so-called "independent consultants" did not trade for the latter's

accounts is fortuitous, and the Court does not believe that the benefits to the victims as a whole of identifying this new class justifies the administrative costs it would impose, which would further deplete the existing assets and reduce the amount available for distribution.

Finally, one Current Investor objects to her classification as such because she closed her account on or around June 25, 2002, and requested that IFS Inc. refund her outstanding account balance, and IFS Inc. accordingly mailed her a check for that amount on or about July 16, 2002, but the check did not clear after the seizure of IFS Inc.'s offices and assets the following day. Because Plan One fully reimburses Historic, but not Current, Investors for Unpaid Withdrawals such as this, this victim asks that she be reclassified as a Historic Investor.

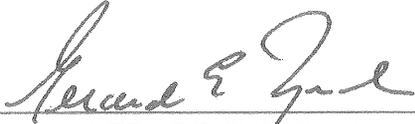
The Court agrees that it may be illogical and unfair to distinguish between Current and Historic Investors with Unpaid Withdrawals, for the only difference may be that IFS Inc. timely responded to one's request to close an account but failed to close another's as expeditiously. In response to this objection, the Receiver proposed two variations on Plan One, the first of which the Court will adopt as the more suitable. Under Plan One, Variation A, both Historic and Current Investors will be fully reimbursed for Unpaid Withdrawals. All other aspects of Plan One remain unchanged.

Accordingly, the Court hereby adopts Plan One, Variation A, as described by the Receiver, and respectfully directs the Receiver to implement that Plan and provide restitution to the victims of the fraud to the extent possible in view of the limited resources recovered from defendants.

While the Court retains jurisdiction to enforce the judgment and supervise administration of the restitution plan, all issues raised in the plaintiff's complaint have now been resolved, all motions have now been resolved by the Court's Opinion and Order dated May 6, 2004, and judgment has been entered. The Clerk of the Court is therefore respectfully directed to close out all open motions and mark the case closed for statistical purposes.

SO ORDERED.

Dated: New York, New York
May 26, 2004



GERARD E. LYNCH
United States District Judge