

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 01-7402-CIV-SEITZ/BANDSTRA

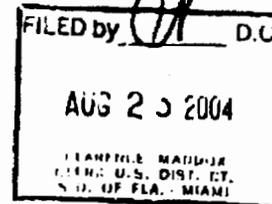
COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

WORLD BANKS FOREIGN CURRENCY
TRADERS, INC., INTERNATIONAL
INVESTORS TRADING GROUP, INC.,
DANIEL LEDOUX, GAVIN LIVOTI,
BRYANT CROWDER, ERIN VALKO,
CHRISTOPHER BOUTCHIE, and
FRANK DESANTIS,

Defendants.



**ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL DEFAULT JUDGEMENT
AGAINST DEFENDANTS WORLD BANKS FOREIGN CURRENCY TRADERS, INC. AND
INTERNATIONAL INVESTORS TRADING GROUP, INC.¹**

THIS MATTER is before the Court on Plaintiff Commodity Futures Trading Commission's ("CFTC") Motion for Default Judgment [DE-94] Against Defendants World Banks Foreign Currency Traders, Inc ("World Banks") and International Investors Trading Group, Inc. ("ITG"). This action involves the fraudulent telemarketing of foreign currency options contracts by Defendants World Banks and ITG to individuals in the U.S. and Canada in violation of the Commodity Exchange Act, 7 U.S.C. § 1 et. seq. (the "Act"). The CFTC has moved for default judgment against World Banks and ITG.

Having reviewed the CFTC's motion for default against World Banks and ITG, the attachments to the motion for default and the record in this action, the Court will grant the CFTC's motion and enter a final default judgment against World Banks and ITG as to both liability and damages.

¹ World Banks and ITG are jointly and severally liable for restitution with the controlling persons, or principals, of these two companies. See *FTC v. U.S. Oil & Gas Corp.*, 1987 U.S. Dist. LEXIS 16117 at *56-57 (S.D. Fla. July 10, 1987) (citing *SEC v. R.J. Allen & Associated, Inc.*, 386 F. Supp. 866, 881 (S.D. Fla. 1974) (noting relief granted in commodities cases is equivalent to that granted in securities cases and that corporations and principals are jointly and severally liable for restitution of funds received from investors)).

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I. FACTUAL AND PROCEDURAL BACKGROUND

A. The Claims against World Banks and IITG

On August 23, 2001, the CFTC filed its original three-count Complaint in this action alleging that Defendants World Banks, IITG, Daniel Ledoux ("Ledoux"), Gavin Livoti ("Livoti"), and Bryant Crowder ("Crowder") fraudulently telemarketed foreign currency options contracts to individuals in the United States and Canada in violation of the Act, as amended by Commodity Futures Modernization Act of 2000 ("CFMA"), Public L. No. 106-554, 114 Stat. 2763 (2000).¹ Specifically, the CFTC alleges that Defendants violated the Act and CFTC regulations by offering and selling illegal foreign currency options contracts, failing to make proper disclosures, and engaging in fraud in connection with the offer and sale of options contracts. On August 24, 2001, the Court granted the CFTC's *ex parte* motion for a statutory restraining order against Defendants World Banks, IITG, Ledoux, Livoti, and Crowder, freezing their assets, prohibiting them from destroying records, requiring them to provide the CFTC with a full accounting of funds, and allowing the CFTC to inspect and copy Defendants' records.

On September 7, 2001, the Court held a hearing on the CFTC's motion for preliminary injunction. Defendants Ledoux and Livoti consented to the entry of a preliminary injunction. Defendants World Banks, IITG, and Crowder failed to appear. As a result, the Court preliminarily enjoined World Banks, IITG, Ledoux, Livoti, and Crowder from violating the Act, from directly or indirectly soliciting or accepting new customers or deposits for commodities futures or options contracts, and continued enforcement of the Court's August 24, 2001 Order freezing Defendants' assets and requiring an accounting. Thereafter, on March 7, 2002, the CFTC filed a First Amended Complaint, adding Defendants Erin Valko, Christopher Boutchie, and Frank Desantis.

¹ On December 21, 2000, Congress enacted the CFMA "to clarify the jurisdiction of the [CFTC] over certain retail foreign exchange transactions and bucket shops that may not otherwise be regulated." (*CFTC v. Batagosh*, 278 F.3d 119, 329 (4th Cir. 2002) (quoting CFMA § 2(5), Pub. L. No. 106-554, 114 Stat. 2763 (2000))) Pursuant to the CFMA, the CFTC "has jurisdiction over foreign currency futures 'offered to or entered into' with any person who is not an 'eligible contract participant.'" *Id.* (quoting CFMA § 102). Ineligible contract participants include, *inter alia*, persons with less than \$10 million in total assets and those who are not registered as futures or securities professionals. *See Id.* (citing CFMA § 102).

B. World Banks and IITG's Failure to File an Answer to the Complaint

The CFTC filed its original complaint in this matter on August 23, 2001, alleging that World Banks and IITG violated the Commodity Exchange Act. World Banks and IITG were served with the complaint, through their registered agent, on August 24, 2001. On March 7, 2002, the CFTC filed its First Amended Complaint in this matter, charging the same allegations as in the original complaint, and adding additional defendants. The amended complaint was served on World Banks and IITG in accordance with Fed. R. Civ. P. 5(b)(2)(B) on or about March 7, 2002. World Banks and IITG never answered either of the complaints served upon them.

The CFTC filed a Request For Entry of Default [DE-53] against World Banks and IITG on April 17, 2002. On April 29, 2002 the Clerk of Court, pursuant to Fed. R. Civ. P. 55(a) entered a default against World Banks and IITG for failure to appear [DE-54]. The CFTC thereafter filed a Motion and Memorandum of Law For Default Judgment against World Banks and IITG [DE-94]. No response in opposition was filed with the Court.

II. DISCUSSION

Rule 55(b)(1) of the Federal Rules of Civil Procedure provides that,

[w]hen the plaintiff's claim against a defendant is for a sum certain, . . . upon request of the plaintiff and upon affidavit of the amount due, . . . the Clerk shall enter default judgment for that amount, . . . if the defendant has been defaulted for failure to appear, and is not an infant or incompetent person"

See also Avango v. Guzman Travel Advisors, 761 F.2d 1527, 1531 (11th Cir. 1985); 10 JAMES W. MOORE ET AL., MOORE'S FEDERAL PRACTICE § 55 (3d ed. 1997).

Defendants World Banks and IITG are corporate defendants and obviously not infants, incompetent persons, members of any branch of the military service of the Armed Forces of the United States or any of its allies, or officers of the Public Health Service.

The amounts for which Defendant World Banks and IITG are liable are a "sum certain" because the amounts for restitution, disgorgement and civil monetary penalties can be calculated. (*See* affidavit

of Mary Kaminski filed on August 21, 2001 as Exhibit 1 to Plaintiff's Memorandum of Points and Authorities In Support of Its Ex Parte Motion for Statutory Restraining Order and Motion for Preliminary Injunction and Other Equitable Relief; *see also* Attachment 3, Kaminski Affidavit filed on May 14, 2003; *see also* affidavits of customers Kuhn, Webb, Phares, and Geiger filed on August 21, 2001 as Exhibits 6, 9, 10 and 11 respectively, to Plaintiff's Memorandum of Points and Authorities In Support of Its Ex Parte Motion for Statutory Restraining Order and Motion for Preliminary Injunction and Other Equitable Relief).

Section 6c of the Commodity Exchange Act ("the Act"), 7 U.S.C. 13a-1, allows the Commission to seek and the Court to issue all forms of ancillary equitable relief, including monetary restitution and disgorgement. Courts consistently have held that in order to adequately and fully enforce the Act, relief in a Commission action must require defendants to return both investor funds (restitution) as well as any and all funds that constitute ill-gotten gains (disgorgement). *See CFTC v. Midland Rare Coin Exchange, Inc.*, No. 97-7422-Civ, 1999 U.S. Dist. LEXIS 20977 at *28-29 (S.D. Fla. Oct. 20, 1999); *CFTC v. Wellington Precious Metals, Inc.*, 1988 U.S. Dist. LEXIS 17381 (S.D. Fla. July 15, 1988).

Section 6c(d)(1) of the Commodity Exchange Act ("the Act"), 7 U.S.C. § 13a-1(c), empowers the Commission to seek and the Court to impose civil monetary penalties "in the amount of not more than the higher of \$120,000 or triple the monetary gain" to each defendant for each violation of the Act.

Based on the record and the documentation provided to the Court, World Banks and IITG are liable for the following:

(a)	Restitution	\$1,880,145.00
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World Banks and IITG received a total of approximately \$1,978,422.00 from customers and returned to customers a total of \$98,277 (see Attachment 3 at ¶4). Therefore, World Banks and IITG retained a total of \$1,880,145.00 of customer funds (see Attachment 3 at ¶4).

(b) Civil Monetary Penalties

\$5,640,435.00

Pursuant to Section 6c(d)(1) of the Act, World Banks and IITG are liable for the "triple monetary gain" to them for each of the three counts in the Complaint (fraud; illegal offer and sale commodities options contracts; and failure to make proper disclosures). Therefore, World Banks and IITG are liable for $(\$1,880,145 \times 3) = \$5,640,435$.

III. CONCLUSION

Based upon the foregoing, it is hereby

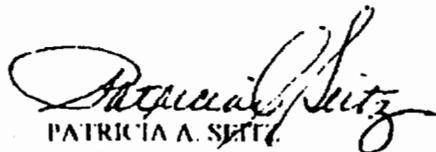
ORDERED that:

(1) Since all elements of Federal Rule of Civil Procedure 55(b)(1) have been met, the CFTC's motion for final default judgment against Defendants World Banks and IITG [DE-94] is GRANTED;

(2) World Banks and IITG are jointly and severally liable to the CFTC for the amount of \$7,520,580, comprised of restitution in the amount of \$1,880,145.00 and civil monetary penalties in the amount of \$5,640,435.00;

(3) The Court will enter a Final Judgment Against Defendants World Banks and IITG in a separate Order, pursuant to Rule 58, Federal Rules of Civil Procedure.

DONE and ORDERED in Miami, Florida, this 23rd day of August, 2004.


PATRICIA A. SETTE
UNITED STATES DISTRICT JUDGE

cc:
All Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 01-7402-CIV-SEITZ/BANDSTRA

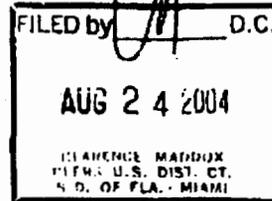
COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

WORLD BANKS FOREIGN CURRENCY
TRADERS, INC., INTERNATIONAL
INVESTORS TRADING GROUP, INC.,
DANIEL LEDOUX, *et al.*,

Defendants.



FINAL DEFAULT JUDGMENT AGAINST DEFENDANT BRYANT CROWDER

For the reasons stated in the Court's Order Granting Plaintiff's Motion for Final Default Judgment Against Defendant Bryant Crowder, dated August 23, 2004 [DE-135], it is hereby

ORDERED that final default judgment is ENTERED in favor of Plaintiff Commodity Futures Trading Commission and against Defendant Crowder. Defendant Crowder is liable to Plaintiff in an amount of \$390,750.74, comprised of restitution in the amount of \$18,412.50, disgorgement in the amount of \$12,338.24, and civil monetary penalties in the amount of \$360,000.00, for which let execution issue. This judgment shall bear interest at the rate prescribed by 28 U.S.C. §1961, and shall be enforceable as prescribed by 28 U.S.C. §2001, *et seq.*, 28 U.S.C. §§3001-3307, and Rule 69(a), Federal Rules of Civil Procedure.

DONE and ORDERED in Miami, Florida, this 24th day of August, 2004.


PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc:
All Counsel of Record
Bryant Crowder, *pro se*

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 01-7402-CIV-SEITZ/BANDSTRA

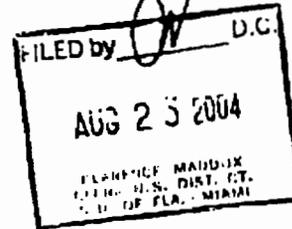
COMMODITY FUTURES
TRADING COMMISSION,

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WORLD BANKS FOREIGN CURRENCY
TRADERS, INC., INTERNATIONAL
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DANIEL LEDOUX, *et al.*,

Defendants.



FINAL DEFAULT JUDGMENT AGAINST DEFENDANT DANIEL LEDOUX

For the reasons stated in the Court's concurrently-issued Order Granting Plaintiff's Motion for Final Default Judgment Against Defendant Daniel Ledoux, it is hereby

ORDERED that final default judgment is ENTERED in favor of Plaintiff Commodity Futures Trading Commission and against Defendant Ledoux. Defendant Ledoux is liable to Plaintiff in an amount of \$499,749.50, comprised of restitution in the amount of — \$47,512.50, disgorgement in the amount of \$92,237.00, and civil monetary penalties in the amount of \$360,000.00, for which let execution issue. This judgment shall bear interest at the rate prescribed by 28 U.S.C. §1961, and shall be enforceable as prescribed by 28 U.S.C. §2001, *et seq.*, 28 U.S.C. §§3001-3307, and Rule 69(a), Federal Rules of Civil Procedure.

DONE and ORDERED in Miami, Florida, this 23rd day of August, 2004.

PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc:
All Counsel of Record
Daniel Ledoux, *pro se*

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 01-7402-CIV-SEITZ/BANDSTRA

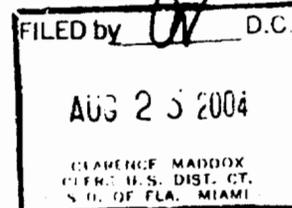
COMMODITY FUTURES
TRADING COMMISSION,

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WORLD BANKS FOREIGN CURRENCY
TRADERS, INC., INTERNATIONAL
INVESTORS TRADING GROUP, INC., *et al.*,

Defendants.



**FINAL DEFAULT JUDGMENT AGAINST WORLD BANKS FOREIGN CURRENCY
TRADERS, INC. AND INTERNATIONAL INVESTORS TRADING GROUP, INC.**

For the reasons stated in the Court's concurrently-issued Order Granting Plaintiff's Motion for Final Default Judgment Against Defendants World Banks Foreign Currency Traders, Inc ("World Banks") and International Investors Trading Group, Inc. ("ITG"), it is hereby

ORDERED that final default judgment is ENTERED in favor of Plaintiff Commodity Futures Trading Commission and against Defendants World Banks and ITG. Defendants World Banks and ITG are liable to Plaintiff in an amount of **\$7,520,580.00**, comprised of restitution in the amount of **\$1,880,145.00** and civil monetary penalties in the amount of **\$5,640,435.00**, for which let execution issue. This judgment shall bear interest at the rate prescribed by 28 U.S.C. §1961, and shall be enforceable as prescribed by 28 U.S.C. §2001, *et seq.*, 28 U.S.C. §§3001-3307, and Rule 69(a), Federal Rules of Civil Procedure.

DONE and ORDERED in Miami, Florida, this ^{23rd} day of August, 2004.

PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc:
All Counsel of Record

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 01-7402-CIV-SEITZ/BANDSTRA

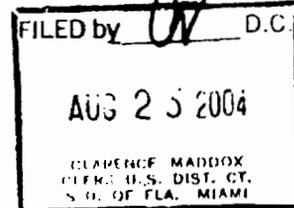
COMMODITY FUTURES
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WORLD BANKS FOREIGN CURRENCY
TRADERS, INC., INTERNATIONAL,
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Defendants.

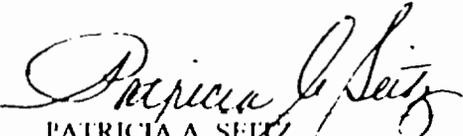


**FINAL DEFAULT JUDGMENT AGAINST WORLD BANKS FOREIGN CURRENCY
TRADERS, INC. AND INTERNATIONAL INVESTORS TRADING GROUP, INC.**

For the reasons stated in the Court's concurrently-issued Order Granting Plaintiff's Motion for Final Default Judgment Against Defendants World Banks Foreign Currency Traders, Inc ("World Banks") and International Investors Trading Group, Inc. ("ITG"), it is hereby

ORDERED that final default judgment is ENTERED in favor of Plaintiff Commodity Futures Trading Commission and against Defendants World Banks and ITG. Defendants World Banks and ITG are liable to Plaintiff in an amount of **\$7,520,580.00**, comprised of restitution in the amount of **\$1,880,145.00** and civil monetary penalties in the amount of **\$5,640,435.00**, for which let execution issue. This judgment shall bear interest at the rate prescribed by 28 U.S.C. §1961, and shall be enforceable as prescribed by 28 U.S.C. §2001, *et seq.*, 28 U.S.C. §§3001-3307, and Rule 69(a), Federal Rules of Civil Procedure.

DONE and ORDERED in Miami, Florida, this ^{23rd} day of August, 2004.


PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc:
All Counsel of Record

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