

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO:06-60001-CIV-DIMITROULEAS/SELTZER

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

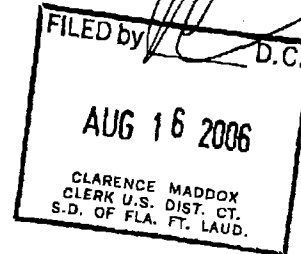
DOREEN ROSE VALKO,  
FRANK A. DESANTIS, a.k.a. JOSH  
ANTHONY, AND  
INTERNATIONAL INVESTMENTS  
HOLDINGS CORP.

Defendants,

v.

JASON TODD DEAN,  
TARA LYN DEAN,  
JOSEPH VALKO,  
JEFFERY PAUL JEDLICKI,  
TIRTZA JEDLICKI,  
THOMAS W. YOOS, JR.,  
ERIN R. DESANTIS, a.k.a. ERIN ROSE  
VALKO,  
ERV & ASSOCIATES, INC.,  
JOE VALKO ENTERPRISES, INC.,  
BOOT CAMP DIET & FITNESS, INC.,  
AMERICAN LIGHTHOUSE TRADING, INC.,  
CERTIFIED FINANCIAL SERVICES, INC.,  
JOHN TADDEO ENTERPRISES, INC.,  
JASON'S ROOFING AND  
WATERPROOFING, INC.

Relief Defendants.



**JUDGMENT BY DEFAULT AND**  
**ORDER OF PERMANENT INJUNCTION**

105  
[signature]

Plaintiff Commodity Futures Trading Commission ("Commission"), filed this action in this Court on or about January 3, 2006, charging that Defendant International Investments Holdings Corp. ("IIHC"), Doreen Valko ("Valko") and Frank DeSantis ("DeSantis") (collectively the "Defendants") had engaged, are engaging, and may be about to engage in acts and practices which constitute violations of Section 4c(b) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 6c(b), and Commission Regulations ("Regulations") 1.1(b) (1) and (3), 32.9(a) and (c), 32.11(a), 17 C.F.R. §§ 1.1(b)(1) and (3), 32.9(a) and (c), and 32.11(a) by soliciting the public for the offer and sale of illegal, off-exchange foreign currency options, generated false statements for customer accounts and misappropriating customer funds. The Complaint seeks disgorgement of ill-gotten gains from a number of Relief Defendants.

The Commission has moved this Court for Judgment by Default and Order of Permanent Injunction. Based upon Plaintiff's memorandum in support of its motion and exhibits attached thereto, the record in this case, and the Court being otherwise advised in the premises, it is hereby

ORDERED that Plaintiff's motion is granted and judgment by default and order of permanent injunction is entered against Defendant IIHC ("Defendant") and judgment by default is entered against Relief Defendants ERV & Associates, Inc., Joe Valko Enterprises, Inc., Jason's Roofing and Waterproofing, Inc., and Certified Financial Services, Inc. ("Relief Defendants"); and the Court hereby enters the following findings of fact and conclusions of law finding the Defendant IIHC liable as to all violations as alleged in the Complaint and Relief Defendants liable as to all claims against them in the Complaint. Accordingly, the Court now issues the following Judgment by Default and Order of Permanent Injunction ("Order") against

Defendant and Relief Defendants on issues of liability and injunctive relief, and the appropriate civil monetary penalties, disgorgement and restitution amounts.

I.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Order and that there is no just reason for delay. The Court therefore, further directs the entry of the following Findings of Fact and Conclusions of Law, and ancillary relief, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), as set forth herein.

**A. JURISDICTION**

11. This Court has subject matter jurisdiction over this action and the allegations in the Complaint pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2002).

12. This Court has personal jurisdiction over Jedlicki pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2002).

13. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1(e) (2002), because Jedlicki resided in and transacted business in the Western District of North Carolina.

**B. FINDINGS OF FACT**

The Commodity Futures Trading Commission is an independent federal regulatory agency that is charged with responsibility for administering and enforcing the provisions of the Act, as amended, 7 U.S.C. §§ 1 *et seq.* (2002), and the Regulations promulgated thereunder.

International Investments Holdings Corp, ("IHC"), is an International Business Corporation ("IBC") formed in the Bahamas, which initially conducted business from Valko's home located at 4914 NW 52<sup>nd</sup> Avenue, Coconut Creek, Florida 33073, and later conducted

business from DeSantis' former home at 2410 NE 31<sup>st</sup> Court, Lighthouse Point, Florida, as well as from other locations throughout south Florida. IHC has never been registered with the Commission in any capacity.

**ERV & Associates, Inc. ("ERV")** is a Florida corporation with its principal address at 2499 Glades Road, Suite 305A, Boca Raton, Florida 33431. ERV's president is relief defendant Erin DeSantis. ERV has never been registered with the Commission in any capacity.

**Joe Valko Enterprises, Inc. ("Valko Enterprises")** is a Florida corporation with its principal place of business at 2499 Glades Road, Suite 305A, Boca Raton, Florida 33431. Valko Enterprises' president is relief defendant Joseph Valko, defendant Valko's husband. Valko Enterprises has never been registered with the Commission in any capacity.

**Jason's Roofing and Waterproofing, Inc. ("Jason's Roofing")** is a Florida corporation with an address at 2499 Glades Road, Suite 305A, Boca Raton, Florida 33431. The president of Jason's Roofing is relief defendant Jason Todd Dean. Jason's Roofing has never been registered with the Commission in any capacity.

**Certified Financial Services, Inc. ("CFS")** is a dissolved Florida Corporation with its principal place of business located at 2499 Glades Road, Suite 305A, Boca Raton, Florida 33431. CFS's president was defendant DeSantis, and its vice president was relief defendant Jason Todd Dean. CFS has never been registered with the Commission in any capacity.

In July 2000, IHC entered into a written "Clearing and Business Agreement" ("Agreement") with World Banks. The Agreement states that "IHC is a clearing and options merchant. Accepting and transferring risk from various options or clearing firms (sic)." The Agreement further provides that "IHC will receive and execute orders, but will not be obligated for order execution...IHC will prepare and transmit, or have prepared and transmitted by a third

party organization customer reports of execution, monies due, call, and monthly statements.”

Pursuant to the terms of the Agreement, the parties agreed that “IIHC will hold cash, securities and other property received from [World Banks and IITG] on behalf of customers” in connection with the purchase or sale of commodity options contracts. IIHC ultimately accepted at least \$1.13 million in customer funds, purportedly for executing transactions involving commodities on behalf of customers.

IIHC, through its agents, prepared and transmitted to customers statements entitled “Transaction Summary.” These statements were issued on IIHC letterhead, purportedly from the “Chancery House, The Mall, Freeport, Grand Bahama” address listed at the top of the statement. The “Transaction Summary” issued by IIHC to customers stated “[T]he following trades have been made this day for your account and risk,” and listed options contracts purportedly bought or sold on behalf of customers. The “Transaction Summary” statements were issued to 205 customers beginning on or about July of 2000, and ending in late March of 2001 when World Banks began winding down its operations. Each “Transaction Summary” issued by IIHC to customers constituted a false statement because none of the “trades” detailed in the “Transaction Summary” ever took place.

Despite the representations that IIHC traded for customer accounts, bank records for the period July 2000 through November 2004 regarding IIHC’s offshore accounts at the Bank of Nevis and the Canadian Imperial Bank of Commerce (“CIBC”) in the Bahamas demonstrate that no trading took place. For example, on or about February 12, 2001, World Banks wire transferred \$554,226.50 to IIHC’s account 8290132 at the Bank of Nevis. In March and April of 2001, the records for this account show that customer funds were used to pay \$44,000 to Erin DeSantis and \$5,000 to Jason and Tara Dean. In May 2001, over \$318,700 was wired to a

Florida title company to purchase real estate located at 2410 NE 31<sup>st</sup> Court, Lighthouse Point, FL - Frank and Erin DeSantis' former waterfront home.

Similarly, between July 2000 and May 2001, other customer funds were wired by World Banks to IIHC's account at CIBC in the Bahamas - over \$164,650 - and used for a variety of purposes unrelated to options trading.

The monthly account statements of the two IIHC accounts at the Bank of Nevis show that approximately \$6 million was wire transferred for a variety of purposes unrelated to options trading, including transfers to the relief defendants as follows: Certified Financial Services, Inc. (\$265,608.90), Jason's Roofing and Waterproofing, Inc. (\$529,340), ERV & Associates, Inc. (\$124,024), Joe Valko Enterprises, Inc. (\$51,045).

### C. Conclusions of Law

#### 1. IIHC Directly Violated Section 4c(b) of the Act and Regulations 1.1 and 32.9(a) and (c)

Misappropriation of customer funds violates the antifraud provision of the Act as well as Commission regulations. *See CFTC v. Skorupskas*, 605 F. Supp. 923, 932 (E.D. Mich. 1985) (commodity pool operator's disbursing of investor funds to other investors, herself and her family violated Section 4b of the Act). *See also CFTC v. Morse*, 762 F. 2d 60, 62 (8th Cir. 1985) (defendant's use of customer funds for personal use violated Section 4b of the Act); and *In re Slusser*, ¶27,701 at 48,315 (respondents violated Section 4b of the Act by surreptitiously retaining money in their own bank accounts that should have been traded on behalf of the investors); and *In re Staryk*, [1994-1996 Transfer Binder] Comm Fut. L. Rep. (CCH) ¶ 26,701, at 43,923-24 (CFTC June 5, 1996), *aff'd in rel. part*, [1998-1999 Transfer Binder] Comm. Fut. L. Rep. ¶ 27,515 at 47,374 (CFTC Dec. 4, 1998) (outlining requirements for options fraud under

*The factual allegations contained herein are deemed admitted only for the purposes of this Default Judgment and Permanent Injunction.*

Section 4c(b) of the Act and noting parallels between applicable Commission Regulation and Section 4b(a) of the Act).

IHC has cheated customers by misappropriating their funds. As set forth above, the money trail associated with IHC's activities leads to the inescapable conclusion that no trading activity ever occurred. Rather, a substantial majority of the funds are sent to offshore accounts in a sporadic manner never to be returned to customers.

IHC, through its agents, also defrauded prospective and actual customers by making various misrepresentations and omissions. Whether a misrepresentation has been made depends on the "overall message" of the communication and the "common understanding of the information conveyed." *R.J. Fitzgerald*, 310 F.3d at 1328; *Hammond* at 36,675 & n.12. Scienter has been found when representations are made intentionally or with a reckless disregard for the truth. *In re Slusser*, [1998-1999 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,701 at 48,313 (CFTC July 19, 1999), *aff'd in relevant part and rev'd in part sub nom., Slusser v. CFTC*, 210 F.3d 783 (7<sup>th</sup> Cir. 2000). A fact is material if a reasonable person would view the information as important in making a trading decision – in other words, as including facts significantly altering the total mix of information already in his possession. *R.J. Fitzgerald*, 310 F.3d at 1328. Such actionable misrepresentations include those made to customers when soliciting their funds. *CFTC v. Rosenberg*, 85 F.Supp.2d 424, 447-448 (D.N.J. 2000); *Saxe v. E. F. Hutton & Co., Inc.*, 789 F.2d 105, 110-111 (2d Cir. 1986); *Hirk v. Agri-Research Council Inc.*, 561 F.2d 96, 103-104 (7<sup>th</sup> Cir. 1977).

IHC made material misrepresentations to customers and potential customers by holding itself out as a clearing firm that actually acted as a counterparty to forex options transactions and confirmed the execution of those transactions. IHC also made material misrepresentations to

customers every time it issued a "Transaction Summary" to a customer, purportedly detailing forex options transactions that were executed on behalf of customers. Since no trading actually occurred, this representation was necessarily false. In a similar manner, by failing to disclose the fact that the entire enterprise was simply a scheme designed to cheat customers, it omitted a material fact. *See Waters v. Int'l Precious Metals*, 172 F.R.D. 479, 488-90 (S.D. Fla. 1996).

At no time did IHC advise customers that their funds were to be used, or actually used, to enrich the defendants and relief defendants instead of trading foreign currency options contracts. Misrepresenting material facts such as these in soliciting funds from prospective and existing customers violates Section 4c(b) of the Act and Commission Regulations 1.1 & 32.9.

**2. IHC Directly Violated Section 4c(b) of the Act and Regulations 1.1 and 32.9(b)**

Section 4c(b) of the Act provides that "no person shall offer to enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an 'option,' ... contrary to any rule, regulation or order of the Commission prohibiting any such transaction...." Commission Regulation 32.9(b) states that it is unlawful for any person to make or cause to be made to any other person any false report or statement in connection with the entry into or the confirmation of the execution of any commodity option transaction. Account statements that falsely represent the value of a customer's account and performance of accounts constitute false statements in violation of Regulation 32.9(b), and are material and constitute fraud with respect to options transactions under 4c(b) of the Act.<sup>1</sup>

---

<sup>1</sup> Section 4b(a)(2)(ii) of the Act also prohibits making false reports, but in connection with commodity futures trading. 7 U.S.C. § 6b(a)(2)(ii) (2002). Numerous courts have found that the making of false reports concerning profitability of trading accounts a violation of Section 4b(a)(2)(ii) of the Act. The "false report" language of 4b(a)(2)(ii) of the Act is essentially identical to the "false report" language found in Regulation 32.9(b). *See, e.g., CFTC v. Noble Wealth Data Info. Serv., Inc.*, 90 F.Supp.2d 676, 686 (D. Md. 2000), *aff'd in part, vacated in part*,



From approximately July 2000 and continuing thereafter, IHC and its agents made or caused to be made false reports or statements in connection with the confirmation of the execution of commodity option transactions by preparing and transmitting to customers false statements entitled "Transaction Summary." As previously discussed, these statements were issued on IHC letterhead, purportedly from the "Chancery House, The Mall, Freeport, Grand Bahama" address listed at the top of the statement. The statements stated "[T]he following trades have been made this day for your account and risk," and listed options contracts purportedly bought or sold on behalf of customers.

Despite the representations set forth in each statement, customer funds were not used by IHC to purchase options on foreign currency. The statements were patently fraudulent because IHC misappropriated the customer funds.

**3. IHC Violated Section 4c(b) of the Act and Regulation 32.11(a).**

The CFMA clarified the Commission's jurisdiction over retail foreign currency options when engaged with a counterparty that is not a regulated financial institution. By the terms of the CFMA, the Commission's jurisdiction over foreign currency options includes options on physical currencies, and not just options on forex futures contracts.<sup>2</sup>

Section 2(c)(2)(B)(i) and (ii) of the Act, 7 U.S.C. § 2(c)(2)(B)(i) and (ii) provides that the Commission shall have jurisdiction over an agreement, contract or transaction in foreign currency that is a sale of a commodity for future delivery or an option, so long as the contract is "offered to,

---

*sub nom. CFTC v. Baragosh*, 278 F.3d 391 (4<sup>th</sup> Cir. 2002). (defendant's profit claims constituted false reports and fraud within the meaning of the Act); *CFTC ex rel. Kelley v. Skorupskas*, 605 F. Supp. 923 at 932-33 (E. D. Mich. 1985)(defendants violated Section 4b(a) of the Act by issuing false monthly statement to customers).

<sup>2</sup> Section 2(c)(2)(B) of the Act, as amended by the CFMA states, "This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that – (i) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange ...; and (ii) is offered to, or entered into with, a person that is not an eligible contract market participant, unless the counterparty, or the person offering to be the counterparty, of the person is - [a regulated entity]."

or entered into with, a person that is not an eligible contract participant” unless the counterparty, or the person offering to be the counterparty, is one of the regulated entities enumerated in Section 2(c)(2)(B)(ii)(I-VI). Futures commission merchants and certain statutorily defined affiliates are regulated entities enumerated in that Section. Because IIHC’s customers are not eligible contract participants and because IIHC has never been a registered FCM or an affiliate, the entire Act applies to the transactions at issue here. Consequently, Section 4c(b) applies to these transactions.

Section 4c(b) of the Act provides that “no person shall offer to enter into, enter into, or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an ‘option,’ ... contrary to any rule, regulation or order of the Commission prohibiting any such transaction....” Commission Regulation 32.11(a), a rule promulgated pursuant to Section 4c(b), states that it is unlawful for any person to solicit or accept orders for the purchase or sale of any commodity option, or accept money in connection with the purchase or sale of any commodity option, except for commodity option transactions conducted or executed on or subject to the rules of a contract market. The options offered by IIHC, and for which it accepted money, were not “conducted or executed on or subject to the rules of a contract market”. Accordingly, IIHC violated Regulation 32.11(a).

#### **4. Relief Defendants**

A nominal or relief defendant is a person or entity that has received ill-gotten funds, and does not have a legitimate claim to those funds. *SEC v. Cavanagh*, 155 F.3d 129, 136 (2<sup>nd</sup> Cir. 1998). A relief or nominal defendant is joined to aid in full relief without asserting separate subject matter jurisdiction over the person or entity. *CFTC v. Kimberlynn Creek Ranch*, 276 F.3d at 191; *SEC v. Cherif*, 933 F.2d 403, 414 (7<sup>th</sup> Cir. 1991) (nominal defendant is joined as a means of facilitating collection, no subject matter jurisdiction needs to be asserted as the

relief defendant has no ownership interest, but merely possession of the funds that are at the center of the controversy.); *SEC v. Collelo*, 139 F.3d 674, 677 (9<sup>th</sup> Cir. 1998) (In order to effect full relief in recovering assets that are the fruit of the underlying fraud, SEC could name a non-party depository as a relief defendant.)

The Relief Defendants herein have received funds from the defendants that were obtained through fraudulent activities. The Relief Defendants have received these funds but do not appear to have provided any legitimate services in exchange for the payments they received. These individuals and entities instead appear to be vehicles by which IIHC and others hid assets and moved customer funds to off-shore accounts.

Equitable remedies, including disgorgement of ill-gotten gains, are remedies for violations of the Commodity Exchange Act. *CFTC v. American Metals Exch. Corp.*, 991 F.2d 71, 76 (3<sup>rd</sup> Cir. 1993) ("A number of courts have held that district courts have the power to order disgorgement as a remedy for violations of the Commodity Exchange Act for the purpose of depriving the wrongdoer of his ill-gotten gains and deterring violations of the law.") In this case, disgorgement by the Relief Defendants is necessary as these entities do not have a legitimate claim to the funds and a deterrent is necessary.

#### **ORDER OF PERMANENT INJUNCTION**

**IT IS HEREBY ORDERED** that:

IIHC is hereby permanently enjoined from violating the Commodity Exchange Act and Regulations as charged and found herein, to wit, by soliciting and/or accepting orders for, and/or accepting money, securities or property in connection with, the purchase and sale of commodity options when: (a) such transactions have not been conducted or executed on or subject to the

rules of a contract market, or a foreign board of trade in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), (2002) and Regulation 32.11(a), 17 C.F.R. § 32.11(a) (2004); it is further

**ORDERED** that IIHC is hereby permanently enjoined from violating the Commodity Exchange Act and Regulations as charged and found herein, to wit, by committing fraud while purportedly buying and/or selling commodity options in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulations 1.1(b) (1) and (3) and 32.9(a), 17 C.F.R. §§ 1.1(b)(1) and (3) and 32.9(a) (2004); it is further

**ORDERED** that IIHC and any other person or entity associated with it, or any successor thereof, are prohibited from engaging in any activity relating to commodity interest trading, including but not limited to, soliciting, accepting or receiving funds, revenue or other property from any person, giving advice for compensation, or soliciting prospective customers, related to the purchase and sale of any commodity futures or options on commodity futures contracts.

#### **ORDER FOR ANCILLARY EQUITABLE RELIEF**

**IT IS FURTHER ORDERED** that:

IIHC shall pay within ten (10) days of this order restitution in the amount of \$6,060,000, which represents the amount solicited from customers. Post-judgment interest shall accrue on the restitution amount at the rate set pursuant to 28 U.S.C. § 1961;

Relief Defendants shall disgorge within ten (10) days their respective ill-gotten gains in the following amounts: Certified Financial Services, Inc.: \$363,428; Jason's Roofing and Waterproofing, Inc.: \$529,340; ERV & Associates, Inc.: \$124,024; and, Joe Valko Enterprises, Inc.: \$70,116.

**ORDER FOR CIVIL MONETARY PENALTY**

**IT IS FURTHER ORDERED** that:

IIHC is assessed and shall pay within ten (10) days a civil monetary penalty of \$6,060,000.

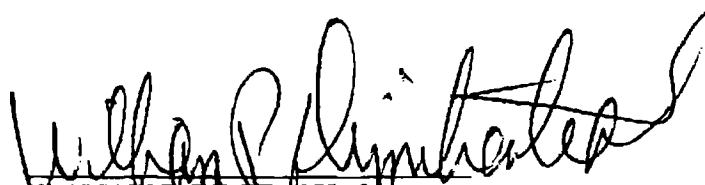
Payment of the civil monetary penalty shall be made to the Commodity Futures Trading Commission, Division of Enforcement, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581 to the attention of Ms. Dennese Posey. Payment must be made by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to the Commodity Futures Trading Commission. The payment(s) shall include a cover letter that identifies IIHC and the name and docket number of this proceeding. IIHC shall simultaneously transmit a copy of the cover letter and the form of payment to the Director, Division of Enforcement, Commodity Futures Trading Commission, 1155 21<sup>st</sup> Street, N.W., Washington, D.C. 20581.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.

*Plaintiff's Motion [DE-90] is hereby GRANTED.*

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida,

this 16 day of August, 2006.

  
WILLIAM P. DIMITROULEAS  
United States District Judge

cc: All Counsel of Record and Court Appointed Receiver