

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

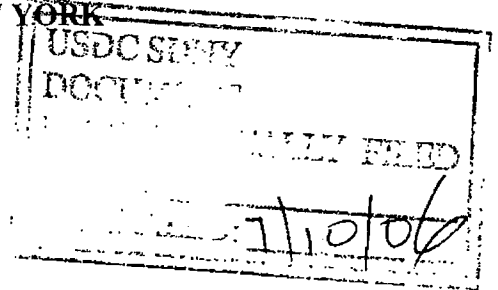
COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

v.

LARRY M. WEBMAN, MELVIN H. WEBMAN, LYLE  
WEXLER, INTERNATIONAL FOREX ADVISORY  
GROUP, and WORLDWIDE CURRENCIES CORP.,

Defendants.



05 CV 4819 (MBM)

**CONSENT ORDER OF PERMANENT INJUNCTION AND OTHER EQUITABLE  
RELIEF AGAINST DEFENDANTS LARRY M. WEBMAN AND MELVIN H. WEBMAN**

On May 19, 2005, plaintiff Commodity Futures Trading Commission (“Commission”) filed a Complaint against Larry M. Webman and Melvin H. Webman (collectively, “Defendants”), as well as Lyle Wexler, International Forex Advisory Group (“IFA Group”), and Worldwide Currencies Corp. (“Worldwide”), seeking injunctive and other equitable relief for violations of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. §§ 1 *et seq.* (2002), and Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2004). On August 23, 2005, the Clerk of the Court entered defaults as to IFA Group and Worldwide, and on November 4, 2005, the Court signed an Order for Entry of Judgment By Default Against them (“Default Judgment”) pursuant to Fed R. Civ. P. 55(b)(2) and Local Civil Rule 55.2. The Default Judgment, which is hereby incorporated by reference, provided for permanent injunctions against IFA Group and Worldwide; civil monetary penalties against IFA Group of \$3,178,530.00, and against

Worldwide of \$526,470.00; orders of restitution against IFA Group of \$2,701,960.00 and against Worldwide of \$255,952.00; and other equitable relief.

**I. CONSENT AND AGREEMENT**

To effect settlement of the matters alleged in the Complaint in this action without a trial on the merits or any further judicial proceedings, Defendants:

1. Consent to the entry of this Consent Order of Permanent Injunction and Other Equitable Relief ("Order").

2. Affirm that they have read and agreed to this Order voluntarily and that no promise or threat has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Order, other than as set forth specifically herein.

3. Acknowledge service of the Summons and Complaint.

4. Admit that this Court has jurisdiction over them and the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002).

5. Admit that venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002).

6. Waive:

a. All claims which may be available under the Equal Access to Justice Act, 5 U.S.C. § 504 (2002) and 28 U.S.C. § 2412 (2002) to seek costs, fees and other expenses relating to, or arising from, this action;

b. Any claim of double jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any relief; and

c. All rights of appeal from this Order.

7. By consenting to the entry of this Order, Defendants neither admit nor deny the allegations of the Complaint and the Findings of Fact contained in this Order, except as to jurisdiction and venue. However, Defendants agree, and the parties to this Order intend, that the allegations of the Complaint and all of the Findings of Fact made by this Court shall be taken as true and correct and be given preclusive effect, without further proof, in any proceeding in bankruptcy or to enforce the terms of the Order. Defendants shall provide immediate notice to this Court and Commission via certified mail, of any bankruptcy filed by, on behalf of, or against them, individually or collectively, or against IFA Group or Worldwide.

8. Defendants agree that neither they nor any of their agents, servants, employees, contractors or attorneys shall take any action or make any public statement denying, directly or indirectly, any allegation in the Complaint or findings or conclusions in the Order or creating, or tending to create, the impression that the Complaint or this Order is without a factual basis; provided, however, that nothing in this provision shall affect Defendants' (a) testimonial obligations; or (b) right to take legal positions in other proceedings to which the Commission is not a party. Defendants shall take all necessary steps to ensure that all of their agents, servants, employees, contractors and attorneys understand and comply with this agreement.

9. Defendants consent to the continued jurisdiction of this Court in order to implement and carry out the terms of all orders and decrees that may be entered herein, to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and to assure compliance with the Order.

## **II. FINDINGS AND CONCLUSIONS**

The Court, being fully advised in the premises, finds that there is good cause for the entry of this Consent Order and that there is no just reason for delay. The Court therefore directs the entry of findings of fact, conclusions of law, and a permanent injunction and ancillary equitable relief pursuant to § 6c of the Act, 7 U.S.C. § 13a-1 (2002), as set forth herein.

**A. Findings of Fact**

1. In December 1981, Defendants consented to the entry of a permanent injunction against them, prohibiting them from violating Section 4c(b) of the Act and Commission Regulations 32.9 and 32.11, stemming from an injunctive action by the Commission alleging solicitation fraud in the illegal offer and sale of commodity options. In March 1982, Defendants also consented to an offer of settlement of an administrative action by the Commission relating to the conduct that gave rise to the injunctive action. In that settlement, Defendants consented to a permanent ban from employment or association with any person or entity registered with the Commission.

**IFA Group's and Worldwide's Fraud**

2. From at least December 2003 through at least July 2004 ("the relevant period"), IFA Group solicited the retail public to buy and sell off-exchange options on foreign currency.

3. During the relevant period, IFA Group solicited, by means of telephone solicitations, approximately \$3,189,131.00 from at least 102 retail customers.

4. All but two of IFA Group's customers lost substantially all of their investments. Losses to customers of IFA Group totaled at least \$2,701,960.00.

5. During the relevant period, Worldwide solicited, by means of telephone solicitations, approximately \$366,500.00 from at least 27 retail customers.

6. All of Worldwide's customers lost substantially all of their investments. Losses to customers of Worldwide totaled \$255,952.00.

7. IFA Group and Worldwide, through their employees, induced customers to trade with them by making false and misleading representations through fraudulent solicitations. IFA Group and Worldwide account executives made materially false claims about the likelihood that a customer would realize large profits trading forex options; misrepresented the substantial risks involved in trading forex options; and misrepresented IFA Group's and Worldwide's exceptionally poor performance record trading forex options on behalf of their customers. IFA Group and Worldwide intentionally made these material misrepresentations in order to obtain customer funds and to obtain commissions from the trading of those funds.

8. The fraud by IFA Group and Worldwide employees resulted directly in substantial losses to investors and ill-gotten gains to IFA Group and Worldwide. IFA Group profited to the extent of the commissions remitted to it by the futures commission merchant with which it did business, totaling \$1,059,510.00. Worldwide profited to the extent of the commissions remitted to it by the futures commission merchant with which it did business, totaling \$175,490.00.

**Defendants Were Controlling Persons of IFA Group and Worldwide**

9. Defendants were responsible for the overall day-to-day operations of both IFA Group and Worldwide. They supervised the hiring and training of employees, and monitored their telephone solicitations. They supervised management of customer accounts, and determined allocations of commission revenue to employees.

10. In acting as controlling persons, Defendants either failed to act in good faith, or knowingly induced, directly or indirectly, the acts constituting the violations of IFA Group and Worldwide by their employees, as set forth herein and in the Default Judgment.

**B. Conclusions of Law**

11. Section 2(c)(2)(B)(i) and (ii) of the Act 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 option thereon) or an option, so long as the contract is “offered to, or entered into with, a person that is not an eligible contract participant,” and “the counterparty, or the person offering to be the counterparty,” is not one of the regulated entities enumerated in Section 2(c)(2)(B)(ii)(I-VI).

12. Section 1a(12)(A)(xi) of the Act defines an eligible contract participant as an individual who has total assets in excess of: a) \$10 million; or b) \$5 million and who enters the transaction to manage the risk associated with an asset owned or a liability incurred, or reasonably likely to be owned or incurred. In short, although the Commission does not have jurisdiction over transactions with eligible contract participants. However, the Commission does have jurisdiction over transactions with ordinary retail customers who are not eligible contract participants, assuming those transactions are conducted with an entity other than an appropriate counterparty, or were conducted with certain appropriate counterparties and involve fraud.

13. All of the foreign currency transactions alleged herein were offered to or entered into with ordinary retail customers who did not qualify as eligible contract participants. The Commission therefore has jurisdiction under Section 2(c)(2)(B)(ii) of the Act over transactions conducted by IFA Group and Worldwide with retail customers.

14. Pursuant to Section 2(c)(2)(B)(ii), a company may legally act as a counterparty to a retail customer in transacting foreign currency business only if the company is specifically identified in Section 2(c)(2)(B)(ii) (I-IV) as an appropriate counterparty, which include, as set forth in subclause (II), futures commission merchants (“FCMs”) and, as set forth in subclause (III), certain statutorily defined affiliates of FCMs, which, in turn, encompasses only those “affiliated” persons as to whom the FCMs are required under the Act and Commission Regulations to make and keep records.

15. During the relevant period, the counterparty to the retail forex options transactions entered into by IFA Group’s customers was NCCI FX, a subsidiary of National Commodities Clearing Inc. (“NCCI”). During the relevant period, NCCI was an FCM registered with the Commission, but NCCI FX was not an affiliate of NCCI for the purposes of Section 2(c)(2)(B)(ii)(III) of the Act, in that NCCI was not required under the Act or Commission Regulations to make and keep records concerning the business or activities of NCCI FX. NCCI FX therefore was not an appropriate counterparty to retail customer transactions.

16. During the relevant period, the counterparty to the retail forex options transactions entered into by Worldwide’s customers was Worldwide Clearing, a registered FCM. Pursuant to Section 2(c)(2)(B)(ii)(II) of the Act, Worldwide Clearing was an appropriate counterparty to retail customer transactions.

17. Notwithstanding subclauses (II) and (III) of subparagraph (B)(ii), which provide that transactions by appropriate counterparties with retail customers are outside the Commission’s jurisdiction, Section 2(c)(2)(C) of the Act provides that agreements, contracts, or transactions in retail foreign currency described in subparagraph (B) are subject to Sections 4b and 4c(b) of the

Act (antifraud provisions) if they are entered into by an FCM or an affiliate of an FCM which is not also an entity described elsewhere in subparagraph (B)(ii)(I-VI).

18. Worldwide Clearing, an FCM, was not also an entity described elsewhere in subparagraph (B)(ii)(I-VI), and, as found below, Worldwide engaged in fraudulent transactions with retail customers to which the counterparty was Worldwide. The Commission therefore has jurisdiction over Worldwide Currencies pursuant to Sections 2(c)(2)(B)(ii) and 2(c)(2)(C).

19. This Court also has jurisdiction over the subject matter of this action and all parties hereto pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

20. Venue properly lies with this Court pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1, in that the Defendants are found in, inhabit, or transact business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this district, among other places.

21. This Court has personal jurisdiction over Defendants, who acknowledge service of the Complaint and consent to the Court's jurisdiction over them.

22. The Commission and Defendants have agreed to this Court's retention of continuing jurisdiction over each of them for the purpose of enforcing the terms of this Order.

23. By the conduct described in Section II.A above, and as further set forth in the Default Judgment, IFA Group and Worldwide violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulations 1.1(h) and 32.9, 17 C.F.R. 1.1(b) and 32.9.



24. By the conduct described in Section II.A above, Defendants, directly or indirectly, controlled IFA Group and Worldwide, and therefore are liable for IFA Group's and Worldwide's violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulations 1.1(b) and 32.9, 17 C.F.R. 1.1(b) and 32.9 pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2002).

### **III. ORDER FOR PERMANENT INJUNCTION**

#### **NOW THEREFORE, IT IS ORDERED THAT:**

1. Defendants are permanently restrained, enjoined and prohibited from directly or indirectly:

a. Offering to enter into, entering into, executing, confirming the execution of, or conducting business for the purpose of soliciting, accepting any order for, or otherwise dealing in any transaction in, or in connection with, a commodity option contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe, in violation of Section 4c(h) of the Act; and

b. In or in connection with an offer to enter into, the entry into, or the confirmation of the execution of any commodity option transaction, including options transactions in foreign currency subject to the Commission's jurisdiction set forth herein at Section II.A: (1) cheating or defrauding or attempting to cheat or defraud any persons; (2) willfully making or causing to be made to any person any false report or statement or causing to be entered for any person any false record; or (3) deceiving or attempting to deceive any person by any means whatsoever, in violation of Section 4c(b) of the Act and Commission Regulations 1.1(b) and 32.9.

2. Defendants are permanently restrained, enjoined and prohibited, from directly or indirectly:

- a. Trading on or subject to the rules of any registered entity, as that term is defined in Section 1a(29) of the Act, 7 U.S.C. § 1a(29);
- b. Soliciting, receiving, or accepting any funds in connection with the purchase or sale of any futures contract or option on a futures contract;
- c. Engaging in, controlling or directing the trading for any commodity futures, security futures, options, options on futures, or foreign currency options accounts for or on behalf of any other person or entity, whether by power or attorney or otherwise; and
- d. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2004), or acting as a principal, agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission, except as provided for in Regulation 4.14 (a)(9), 17 C.F.R. § 4.14(a)(9) (2004). This includes, but is not limited to, soliciting, accepting or receiving any funds, revenue or other property from any person, giving commodity trading advice for compensation, except as provided for in Regulation 4.14 (a)(9), 17 C.F.R. § 4.14(a)(9) (2004), or soliciting prospective customers, related to the purchase or sale of any commodity futures, security futures, options, options on futures, or foreign currency futures;

3. The injunctive provisions of this Order shall be binding on Defendants, upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of Defendants, and upon any person who receives actual notice of this Order by personal service or otherwise insofar as he or she is acting in active concert or participation with Defendants.

#### **IV. ORDER FOR OTHER EQUITABLE RELIEF**

##### **IT IS FURTHER ORDERED THAT DEFENDANTS SHALL PAY RESTITUTION AND CIVIL MONETARY PENALTIES:**

1. CIVIL MONETARY PENALTIES: Each Defendant shall pay a civil monetary penalty of \$500,000.00, plus post-judgment interest. Interest on each penalty after the date of this Order until the civil monetary penalty is paid in full shall be paid at the post-judgment interest rate set forth in 28 U.S.C. § 1961. Each Defendant shall pay such civil monetary penalty by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order, made payable to the Commodity Futures Trading Commission, and sent to Dennese Posey, or her successor, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street N.W., Washington, D.C. 20581, under cover of a letter that identifies the Defendant and the name and docket number of this proceeding. Each Defendant shall simultaneously transmit a copy of the cover letter and the form of payment to the Regional Counsel, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 140 Broadway, 19<sup>th</sup> Floor, New York, NY 10005.

2. RESTITUTION: Defendants shall be jointly and severally liable for restitution to customers in the amount of \$2,957,912.00. In addition, Defendants shall pay pre-judgment interest thereon from December 1, 2003 to the date of this Order calculated at the IRS underpayment rate established by the Internal Revenue Service, pursuant to 26 U.S.C. § 6621(a)(2). Defendants shall also pay post-judgment interest at the Treasury Bill rate prevailing on the date this Order is entered, pursuant to 28 U.S.C. § 1961, accruing from that date to the date full payment of restitution is made. Attachments A and B to the Default Judgment include the names of the IFA Group and Worldwide investors to whom restitution shall be made pursuant to this paragraph, together with the amount of restitution payable to each of them (not including

required interest). Defendants' obligations to make restitution under this paragraph shall be reduced by any amounts paid to the investors listed in Attachments A and B pursuant to any restitution ordered in any other legal proceeding or pursuant to any collateral agreement, subject to the conditions as set forth in the paragraph headed "Collateral Agreements," below. All payments made pursuant to this Order by Defendants shall be considered restitution payments and disbursed on a pro rata basis until those amounts (including interest) are fully satisfied. All payments after satisfaction of the restitution obligations shall be applied to the civil monetary penalty described herein.

3. RESTITUTION MONITOR: All restitution payments made in satisfaction of Defendants' restitution obligations as set forth herein shall be sent to Daniel Driscoll, Executive Vice-President, Chief Compliance Officer, or his successor (the "Restitution Monitor"), at the National Futures Association, 200 W. Madison Street #1600, Chicago, Illinois 60606, and made payable to the IFA Group/Worldwide Settlement Fund. The Restitution Monitor shall distribute restitution payments to customers on a pro rata basis unless, at his sole discretion, based upon the amount of funds available for distribution, the Restitution Monitor decides to defer distribution. The Restitution Monitor shall not be liable for any acts or omissions while acting in this capacity, other than for fraud.

4. PARTIAL PAYMENTS: Any acceptance by the Commission or the Restitution Monitor of partial payment of Defendants' restitution and/or civil monetary obligations, shall not be deemed a waiver of Defendants' obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balances.

5. THIRD-PARTY BENEFICIARIES: Pursuant to Rule 71 of the Federal Rules of Civil Procedure, each of the individuals identified in Attachments A and B to the Default

Judgment is explicitly made an intended third-party beneficiary of this Order and may seek to enforce obedience of this Order to obtain satisfaction of any portion of the restitution amount which has not been paid by either IFA Group or Worldwide, to ensure continued compliance with any provision of this Order and to hold Defendants in contempt for any violations of any provision of this Order.

6. COLLATERAL AGREEMENTS: Defendants shall immediately notify the Commission and Restitution Monitor if they make, individually or collectively, any agreement with any investor obligating either or both to make payments outside of this Order. Defendants shall also provide immediate evidence to the Court, the Commission and Restitution Monitor of any payments made pursuant to such agreement. Upon being notified of any payments made by Defendants to investors outside of this Order, and receiving evidence of such payments, the Restitution Monitor will have the right to reduce and offset Defendants' obligation to specified investors and to make any other changes in the restitution distribution schedule that he deems appropriate.

7. TRANSFER OF ASSETS: Defendants shall not transfer or cause others to transfer funds or other property to the custody, possession, or control of any other person for the purpose of concealing such funds from the Court, the Commission, or any investor until the restitution amount has been paid in full.

**V. MISCELLANEOUS PROVISIONS**

1. NOTICES. All notices required by this Order shall be sent by certified mail, return receipt requested, as follows:

- a. Notice to Plaintiff Commission:  
Regional Counsel, Division of Enforcement  
Commodity Futures Trading Commission  
140 Broadway, 19<sup>th</sup> Floor  
New York, NY 10005
- b. Notice to the Restitution Monitor:  
Vice President, Compliance  
National Futures Association  
200 West Madison Street  
Chicago, IL 60606
- c. Notice to Defendant Larry M. Webman:  
c/o Cirino M. Bruno, Esq.  
Gusrae, Kaplan, Bruno & Nusbaum PLLC  
120 Wall Street  
New York, NY 10005
- d. Notice to Defendant Melvin H. Webman:  
c/o Michael S. Goodman, Esq.  
633 Northeast 167<sup>th</sup> Street, Suite 325  
North Miami Beach, FL 33162

2. ENTIRE AGREEMENT, AMENDMENTS AND SEVERABILITY. This Order incorporates all of the terms and conditions of the settlement among the parties. Nothing shall serve to amend or modify this Order in any respect whatsoever, unless: (1) reduced to writing, (2) signed by all parties, and (3) approved by order of the Court. If any provision of this Order or the application of any provision or circumstance is held invalid, the remainder of this Order shall not be affected by the holding.


3. SUCCESSORS AND ASSIGNS. This Order shall inure to the benefit of and be binding on the parties' successors, assigns, heirs, beneficiaries and administrators.

4. COUNTERPARTS. This Order may be executed by the parties in counterparts and by facsimile.

5. JURISDICTION. This Court shall retain jurisdiction of this cause to assure compliance with this Order and for all other purposes related to this action.

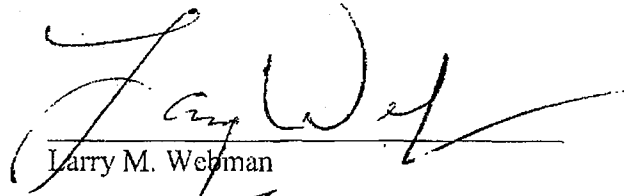
There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Consent Order of Permanent Injunction and Other Equitable Relief Against Defendants Larry M. Webman and Melvin H. Webman.

Done and ordered on this 08 day of July, 2006.

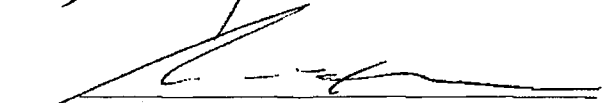
  
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HON. MICHAEL B. MUKASEY  
UNITED STATES DISTRICT JUDGE

Consented to and  
Approved for entry by:

Dated: March 13, 2006

  
\_\_\_\_\_  
Larry M. Webman

Dated: March 14, 2006

  
\_\_\_\_\_  
Cirino M. Bruno  
Attorney for Defendant Larry M. Webman

Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
Melvin H. Webman

Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
Michael S. Goodman  
Attorney for Defendant Melvin H. Webman

Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
David Acevedo (DA 0388)  
Stephen R. Morris (SM 9515)  
Attorneys for Plaintiff  
Commodity Futures Trading Commission



Consented to and  
Approved for entry by:

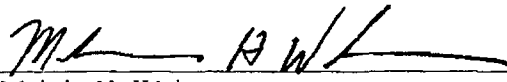
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Larry M. Webman

Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
Cirino M. Bruno  
Attorney for Defendant Larry M. Webman

Dated: March 14, 2006

  
\_\_\_\_\_  
Melvin H. Webman

Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
Michael S. Goodman  
Attorney for Defendant Melvin H. Webman

Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
David Acevedo (DA 0388)  
Stephen R. Morris (SM 9515)  
Attorneys for Plaintiff  
Commodity Futures Trading Commission

Consented to and  
Approved for entry by:

Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
Larry M. Webman

Dated: March \_\_\_\_, 2006

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Cirino M. Bruno  
Attorney for Defendant Larry M. Webman

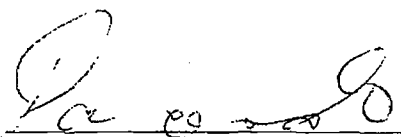
Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
Melvin H. Webman

Dated: March \_\_\_\_, 2006

\_\_\_\_\_  
Michael S. Goodman  
Attorney for Defendant Melvin H. Webman

Dated: July 5, 2006

  
\_\_\_\_\_  
David Acevedo (DA 0388)  
Stephen R. Morris (SM 9515)  
Attorneys for Plaintiff  
Commodity Futures Trading Commission