

S

UNITED STATES DISTRICT COURT  
for the  
WESTERN DISTRICT OF KENTUCKY

COMMODITY FUTURES TRADING  
COMMISSION,  
Plaintiff,

v.

E NET SPECULATION LTD. d/b/a E NET  
SPECULATION S.A., PATRICE  
CORNAZ, and ATHOS SOCRATOUS,  
Defendants.

CIVIL ACTION NO: 3-04ev169-S  
The Honorable Charles R. Simpson

**Consent Order of Permanent  
Injunction and Other Equitable  
Relief and a Civil Monetary  
Penalty**

On March 19, 2004, plaintiff Commodity Futures Trading Commission ("Commission") filed a complaint against Defendants E Net Speculation, Ltd., d/b/a E Net Speculation S.A. ("E Net"), Patrice Cornaz ("Cornaz"), and Athos Socratous ("Socratous") (collectively "the Defendants"), seeking injunctive and other equitable relief, and a civil monetary penalty, for violations of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §§ 1 et seq. (2001) relating to the offer and sale of commodity futures contracts to residents of the United States.

**I. Consents And Agreements**

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

1. Defendants consent to the entry of this Consent Order of Permanent Injunction and Other Equitable Relief and a Civil Monetary Penalty ("Order").
2. Defendants affirm that they have 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. Defendants waive service of the Summons and Complaint.
4. Defendants consent to the jurisdiction of this Court to enter this Order.
5. Defendants waive:
  - (a) all claims they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2000) and 28 U.S.C. § 2412 (2000), 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 other relief; and
  - (c) all rights of appeal from this Order.

6. Defendants neither admit nor deny any of the findings of fact or conclusions of law contained in this Order. Defendants do not consent to the use of this Order, or the findings of fact or conclusions of law, as the sole basis for any other proceeding brought by the Commission other than a proceeding brought to enforce the terms of the Order, any proceeding in bankruptcy, or as set forth in Part VI, paragraph 1 of this Order. No provision of this Order shall in any way limit or impair the ability of any person to seek any legal or equitable remedy against Defendants or any other person in any other proceeding.

7. Defendants agree that neither they nor any of their agents or employees acting under their authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the complaint, or findings of fact or conclusions of law in this 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' testimonial obligations or right to take legal, factual or equitable 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 and employees understand and comply with this agreement.

8. Defendants consent to the continued jurisdiction of this Court for the purpose of enforcing the terms and conditions of this Order and for any other purposes relevant to this case.

## **II. Findings of Fact**

The Court hereby makes the following findings of fact:

1. This Court has jurisdiction over the subject matter of this action and all parties hereto pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a).

2. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e), in that Cornaz and Socratous caused E Net to be found in 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.

3. Since at least December 2001 to March 19, 2004, (“relevant time period”), Defendants solicited and accepted funds from U.S. retail investors for the purpose of engaging in speculative trading of futures contracts.

4. Defendants have never been designated by the Commission as a contract market, and have never sought exemption from this requirement from the Commission's staff.

5. Defendants acted as the counterparty to commodity futures contracts purchased and sold by residents of the United States.

## **III. Conclusions of Law**

1. From at least December 2001 through March 19, 2004, Defendants violated Section 4(a) of the Act, 7 U.S.C. § 6(a).

2. From at least December 2001 through March 19, 2004, Defendants violated Section 4b(a)(2)(iv) of the Act, 7 U.S.C. § 6b(a)(2)(iv).

#### **IV. Order For Permanent Injunction**

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Defendants and all persons insofar as they are acting in the capacity of Defendants' agents, servants, employees, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendants who receive actual notice of such order by personal service or otherwise, are permanently prohibited from directly or indirectly:

(a) Engaging in conduct in violation of Sections 4(a) and 4b(a)(2)(iv) of the Act, 7 U.S.C. §§ 6(a) and 6b(a)(2)(iv); or

(b) Directly or indirectly soliciting or accepting any funds from any resident of the United States or its territories in connection with the purchase or sale of any commodity futures or options on commodity futures without being properly designated as a contract market or registered as a derivatives transaction execution facility or being properly registered or exempt from registration as a futures commission merchant, or other capacity required by the Act.

#### **V. Order for Affirmative Relief**

**IT IS FURTHER ORDERED THAT** E Net shall prominently display a banner notice on its website(s) informing all visitors to the website(s) that E Net's products and services are not available to residents of the United States or its territories and E Net shall maintain its website(s) in a manner that prevents residents of the United States or its territories from effecting transactions with E Net.

## **VI. Order For Civil Monetary Penalty**

**IT IS FURTHER ORDERED THAT** Defendants shall pay, within five (5) business days of the entry of this Order, a civil monetary penalty of \$50,000. Defendants 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 21<sup>st</sup> Street, N.W., Washington, D.C. 20581, under cover of a letter that identifies Defendants and the name and docket number of the proceeding. Defendants shall simultaneously transmit a copy of the cover letter and the form of payment to the Director, Division of Enforcement, Commodity Futures Trading Commission, at the following address: 1155 21<sup>st</sup> Street, NW, Washington, D.C. 20581.

## **VII. Miscellaneous Provisions**

1. Default: Any failure by Defendants to carry out any of the terms, conditions or obligations under any paragraph of this Order shall constitute an Event of Default. If any Event of Default occurs the Commission (or its designee) shall be entitled to:

(a) an order requiring immediate payment of any unpaid restitution obligation, and/or civil monetary penalty, or, at the Commission's option, the entire unpaid balance, or any unpaid portion, of the restitution and/or civil monetary penalty amount set forth above; and/or

(b) move the Court for imposition of all other available remedies, including, but not limited to, an order holding Defendant in contempt for violation of this Order.

2. Notice to Commission: All notices required to be given to the Commission by any provision in this consent Order shall be sent certified mail, return receipt requested, as follows:

Regional Counsel  
Division of Enforcement - Central Region  
Commodity Futures Trading Commission  
525 West Monroe Street, Suite 1100  
Chicago, Illinois 60661

3. Entire Agreement and Amendments: This Order incorporates all of the terms and conditions of the settlement among the parties hereto. Nothing shall serve to amend or modify this Consent Order in any respect whatsoever, unless: (1) reduced to writing; (2) signed by all parties hereto; and (3) approved by order of this Court.

4. Invalidation: If any provision of this Order, or the application of any provisions or circumstances is held invalid, the remainder of the Order and the application of the provision to any other person or circumstance shall not be affected by the holding.

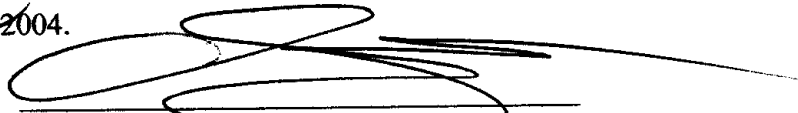
5. Waiver: The failure of any party hereto at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same or any other provision of this Order. No waiver in one or more instances of the breach of any provision contained in this Order shall be construed as a further or continuing waiver of a breach of any other provision of this Order.

6. Acknowledgements: Upon being served with copies of this Order after entry by the Court, Defendants shall sign acknowledgments of such service and serve such acknowledgments on the Court and the Commission within seven days.

7. 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 and a Civil Monetary Penalty.


Done and ordered on this 1<sup>st</sup> day of December, 2004.




UNITED STATES DISTRICT JUDGE

We agree to the entry of this Order.

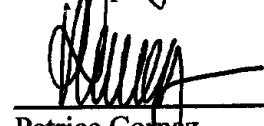
For the Plaintiff:

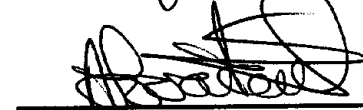
  
Catherine R. Fuller, Lead Trial Attorney  
Commodity Futures Trading Commission  
525 W. Monroe Street, Suite 1100  
Chicago, Illinois 60661  
(312)596-0548  
(312)596-0714 (facsimile)

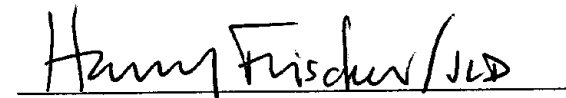
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