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MAY 10 2007
CENTRAL DISTRICT OF CALIFORNIA
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MAY 14 2007
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES & EXCHANGE
COMMISSION,

Plaintiff,

v.

CURRENCY TRADING
INTERNATIONAL, INC., BRIAN R.
MOORE, CRAIG A. CUNNINGHAM,
CRAIG WIGINTON, JAMES R.
KELSALL, CHRISTIAN J. WEBER, and
ROBERT SHANE JONES,

Defendants.

CV 02-5143 PA (CTx)

ORDER APPOINTING DISTRIBUTION
AGENT

On May 3, 2004, this Court entered a Revised Final Judgment of Permanent Injunction Disgorgement, Prejudgment Interest and Civil Penalties (" Revised Final Judgment") against Defendants Currency Trading International, Inc. ("CTI"), Brian R. Moore ("Moore"), Craig A. Cunningham ("Cunningham"), James R. Kelsall ("Kelsall"), and Christian J. Weber ("Weber") (collectively "Defendants").

The Plaintiff Securities and Exchange Commission ("Commission") has applied for an Order Appointing a Distribution Agent in this case and has recommended Richard

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1 Weissman, Esq. as the Distribution Agent. The Court has considered the Plaintiff's Motion
2 and any responses thereto.

3 NOW THEREFORE, IT IS HEREBY ORDERED, that Richard Weissman is
4 appointed Distribution Agent (the "Distribution Agent") in this matter, with the particular
5 powers and duties set forth below, over the distribution fund arising out of that litigation
6 entitled: *Securities & Exchange Commission v. Currency Trading International, Inc., et al.*,
7 Case No. CV 02-5143 (PA)(CTx) (the "Fund"). The Fund will distribute certain moneys
8 currently on deposit in the Registry of the Court in the Northern District of Ohio relating to a
9 matter entitled: *United States v. Options Trading Croup, Inc., et al.*, Case No. 98 CV 1784
10 (Judge Lesley Brooks Wells) (N.D. Ohio, E. Div) (the "OTG action").

11 IT IS HEREBY FURTHER ORDERED that the Distribution Agent shall have the
12 following powers and duties:

13 1. With respect to any funds placed in control of the Distribution Agent, the
14 Distribution Agent shall invest and reinvest the Fund with a view first toward preserving the
15 principal and second toward maximizing investment return. Accordingly, the Distribution
16 Agent shall invest and reinvest the Fund only in the following investments: (a) direct
17 obligations of the United States; (b) obligations whose principal and interest are
18 unconditionally guaranteed by the United States; and/or (3) money market funds authorized
19 to invest and reinvest solely in direct obligations of the United States. The Distribution
20 Agent, pending investment of any portion of the Fund in the manner identified above, shall
21 place the Fund, or any portion thereof, in a custodial account established by the Distribution
22 Agent at a federally insured bank.

23 2. The Distribution Agent may retain attorneys, accountants and other persons to
24 assist in carrying out this Order. The Distribution Agent shall, at such times as may be
25 appropriate, submit to the Court for approval before payment bills for the Distribution
26 Agent's own services, and the services of persons the Distribution Agent retains, plus
27 expenses. The Distribution Agent and his administrative employees will be entitled to seek
28 compensation at the following rates: (i) the Distribution Agent, \$200 per hour for duties

1 performed as Distribution Agent or \$295 per hour when rendering legal services on behalf
2 of the Fund or the distribution of the proceeds of the Fund; (ii) administrative employees,
3 \$65 per hour. Compensation of other professionals, if any, that the Distribution Agent
4 should require to retain will be subject to approval of a fee application to the Court.

5 3. The Distribution Agent shall, as provided below, take appropriate and
6 reasonable steps to distribute the Fund to persons who purchased foreign currency options
7 sold by CTI during the relevant time period alleged in the complaint in this matter, *Securities*
8 *& Exchange Commission v. Currency Trading International, Inc., et al.*, Case No. CV 02-
9 5143 (PA)(CTx). Where the Distribution Agent deems necessary, after consultation with the
10 Commission, the Distribution Agent may modify the distribution procedure to effectuate the
11 general purposes of this Order.

12 a. The Distribution Agent shall, with the assistance of the Commission
13 staff, review a spreadsheet created by the Commission from business
14 records provided to the Commission during its investigation of this
15 matter to identify potential claimants for the Fund (purchasers of
16 foreign currency options from CTI) ("Claimants"). The Distribution
17 Agent shall attempt to verify the contact information for those
18 Claimants whose contact information that Commission's staff has been
19 unable to verify to date.

20 b. The Distribution Agent shall provide the potential claimants who have
21 been individually identified with written notice by certified mail of the
22 right to submit a claim. The notice shall include a copy of this order, a
23 proof of claim form prepared by the Distribution Agent and of the
24 deadline for the filing of claims.

25 c. In addition, the Distribution Agent, in conjunction with the staff of the
26 Commission, shall publish notice to potential claimants through the
27 Commission's website at www.sec.gov. The Notice shall include the
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- contact information of the Distribution Agent, a copy of this order, a proof of claim form, and the deadline for the filing of claims.
- d. All claims submitted to the Distribution Agent must be post marked within 180 days from the date of publication of notice on the Commission's website. The publication on the Commission website will include a bar date by which a proof of claim must be received. Any claim postmarked after the bar date may be rejected by the Distribution Agent. Each claimant must submit a proof of claim form prepared by the Distribution Agent, and each claimant must certify the existence of and amount of any such claim under penalty of perjury and submit any records that the Distribution Agent may require to substantiate the existence or amount of said claim.
- e. The Distribution Agent shall determine the amount to be paid to each Claimant by comparing the amount each Claimant invested with the total amount invested by all of the Claimants, and then calculating each Claimant's share of the Fund relative to other Claimants' shares. The Distribution Agent shall not make distributions to any Claimant that was a defendant, a nominee of a defendant or otherwise affiliated with a defendant, in the proceedings styled, *Securities & Exchange Commission v. Currency Trading International, Inc., et al.*, Case No. CV 02-5143 (PA)(CTx), or *United States v. Options Trading Group, Inc., et al.*, Case No. 98 CV 1784 (Judge Lesley Brooks Wells) (N.D. Ohio, E. Div).
- f. The Distribution Agent shall notify all Claimants as to the amount that has been calculated to be that Claimant's pro rata share of the Fund.
- g. Where the Distribution Agent denies a claim, the Distribution Agent shall so notify the Claimant and shall advise the Claimant that he or she

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has 15 days to request reconsideration and provide additional documentation for the claim.

- h. Except as otherwise provided herein, the filing of a proof of claim with the Distribution Agent shall constitute consent to and a grant by the claimant of jurisdiction to the Court supervising the distribution of the Fund to adjudicate said claims and all aspects of the claims process.
- i. Further, by filing a proof of claim, each claimant also shall be consenting as follows:
- (i) Any disapproval or dispute by the Distribution Agent of a claim shall be submitted by the Distribution Agent to the Court for review and approval or disapproval, upon noticed motion, with notice to each such disapproved claimant. The failure of claimant to submit to the Distribution Agent sufficient proof of claim shall constitute grounds upon which the Distribution Agent may base his denial or objection to the proof of claim, independently from an untimely filed claim.
 - (ii) Any opposition by a Claimant to the Distribution Agent's denial or objection to a claim shall be filed and served by the claimant on the Distribution Agent and counsel for the Commission, as required by the Federal Rules of Civil Procedure and the local rules of this Court, and accompanied by any evidence to be presented by the claimant, which shall be submitted by written declaration under penalty of perjury as to the accuracy, veracity and authenticity of such evidence. Any reply by the Distribution Agent and/or the Commission shall be in accordance with said Federal Rules and local rules.
 - (iii) All of the claims and distribution issues shall be heard and adjudicated by the Court without a jury.

- 1 h. The Distribution Agent shall set aside a portion of the Fund to pay taxes
2 on its income and the fees and expenses incurred or likely to be
3 incurred in carrying out this Order (the "Reserves").
- 4 i. The Distribution Agent shall, unless otherwise ordered by this Court
5 then allocate the balance of the Fund, minus Reserves, among eligible
6 Claimants pro rata, based on the amounts of their claims as allowed by
7 the Distribution Agent.
- 8 j. The Distribution Agent shall, prior to paying any claims, file an
9 application with the Court seeking express approval of his proposed
10 payment plan ("Plan").
- 11 k. Upon Court approval of the Plan, the Distribution Agent shall pay all
12 outstanding taxes payable by the Fund, pay all remaining fees and
13 expenses incurred in carrying out this Order, and distribute the Fund
14 according to the allocations provided for above.
- 15 l. If any money remains in the Fund after all distributions to Claimants
16 and all payments of taxes, fees and expenses have been made, the
17 Distribution Agent shall pay the balance remaining in the Fund
18 (including any distribution checks that remain uncashed for more than
19 six months) to the United States Treasury.

20 4. The Distribution Agent shall give the Commission at least 15 days notice of all
21 applications to the Court under this Order and shall regularly report to the Commission on
22 the status of the Distribution Agent's activities in executing this Order.

23 5. The Distribution Agent and his or her designees, agents, and assistants are
24 excused from any requirement to post a bond or other undertaking and shall not be liable to
25 any person for their actions hereunder, except on a finding of malfeasance, reckless
26 disregard of duty, or gross negligence.

27 IT IS HEREBY FURTHER ORDERED that the Distribution Agent shall make
28 proper application to the District Court in Cleveland, Ohio in the case entitled *United States*

1 *v. Options Trading Group, Inc., et al.*, Case No. 98 CV 1784 (Judge Lesley Brooks Wells)
2 (N.D. Ohio, E. Div), for transferral of the funds contained in the CTI Restoration Fund to an
3 FDIC insured trust account within the Central District of California. From these trust funds,
4 the Distribution shall also set up an Administrative Disbursal Account using not more than
5 \$50,000.00 of said trust funds. The Disbursal Account shall be used to cover administrative
6 fees and expenses necessary for the Distribution Agent to carry out the claims processing
7 under the Plan set forth in this Order (the "Administrative Disbursal"). The Distribution
8 Agent is authorized to pay administrative expenses from the Administrative Disbursal as
9 incurred. Administrative fees may be paid monthly following the Distribution Agent's
10 submission of a monthly report to the Commission. In addition, the Distribution Agent shall
11 file a quarterly status report with the Court describing his work, with a copy to the
12 Commission, and including a description of the administrative fees and expenses incurred by
13 and paid from, or to be paid from the Administrative Disbursal. Any payments from the
14 Administrative Disbursal shall be expressly subject to review and ratification by the Court.
15 In the event the incurred administrative fees and expenses exceed the balance of the
16 Administrative Disbursal then held by the Distribution Agent, an application may be made to
17 the Court for replenishment thereof. If, in the Court's judgment, any of the administrative
18 fees and expenses paid from the Administrative Disbursal were not fair and reasonable, the
19 Court may require that such amounts be offset against administrative fees and expenses
20 subsequently incurred.


21 **IT IS HEREBY FURTHER ORDERED** that in addition to the appointment of the
22 Distribution Agent, Damasco & Associates of San Francisco, CA is also appointed as a Tax
23 Administrator for the purpose of filing federal tax returns on sums by the CTI Restoration
24 Fund during the period of its existence as a qualified settlement fund. Damasco &
25 Associates shall be compensated for its fees and expenses upon application to this Court by
26 the Distribution Agent.

27 **IT IS HEREBY FURTHER ORDERED** that all professional fees incurred by, or at
28 the direction of the Distribution Agent, including his professional fees herein, shall require

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application to the Court for approval. Interim applications may be made from time to time as warranted.

DATED: May 8, 2007


Percy Anderson
UNITED STATES DISTRICT JUDGE

RECEIVED

From: Name: United States District Court
312 North Spring Street
Los Angeles, CA 90012
Voice Phone: (213) 894-5474

To: Name: Lisa Gok
Company:
5670 Wilshire Blvd, 11th Fl,
City/State: Los Angeles, CA 90036-3648
Fax Number: 323-965-3813

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**



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The attached copy is hereby served upon you pursuant to Federal Rule of Civil Procedure 77(d).

Fax Notes:

Case 2:02-CV-05143 : SEC V. CURRENCY TRADING INT, ET AL

Pursuant to General Order 06-07, Section F, the following documents shall be submitted in the traditional manner: Pen Registers, Search Warrants, Seizure Warrants, Wire Taps, Bond Related Documents, Under Seal and In-Camera Documents, and All Charging Documents (Complaints, Informations, Indictments, and Superseding Charging Documents). All other documents filed in cases unassigned to a division shall be filed electronically with a copy e-mailed to the criminal intake mailbox for the appropriate division. The proper e-mail address for each division is as follows:

*Western Division: CrimIntakeCourtDocs-LA@cacd.uscourts.gov
Southern Division: CrimIntakeCourtDocs-SA@cacd.uscourts.gov
Eastern Division: CrimIntakeCourtDocs-RS@cacd.uscourts.gov*

For additional information and assistance, please refer to the CM/ECF page on the Court website at www.cacd.uscourts.gov.

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Date and time of transmission: Tuesday, May 15, 2007 11:22:00 AM
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