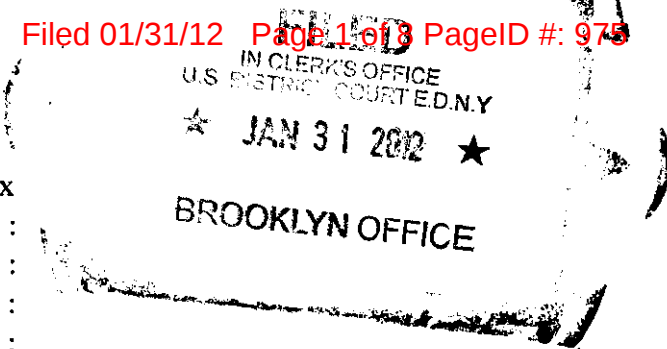


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



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COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

-against-

INTERNATIONAL FOREIGN
CURRENCY, INC., a New York corporation,
d/b/a INTERNATIONAL FOREIGN
CURRENCY EXCHANGE, and I.F.C.
TRADING, INC.; THOMAS QUALLS, an
individual; and MICHAEL KOURMOLIS,
an individual,

Defendants.

JUDGMENT ORDER
03-CV-3577 (DLI) (ARL)

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DORA L. IRIZARRY, United States District Judge:

On July 23, 2003, Plaintiff U.S. Commodity Futures Trading Commission (“Commission”) filed a two-count Complaint against the Defendants International Foreign Currency, Inc. (d/b/a International Foreign Currency Exchange and I.F.C. Trading, Inc.) (“IFC”), Thomas Qualls (“Qualls”) and Michael Kourmolis alleging violations of the Commodity Exchange Act (the “Act”), 7 U.S.C. §§ 1 *et seq.* (2001), and the regulations (“Commission Regulations”) promulgated thereunder, 17. C.F.R. §§ 1.1 *et seq.* (2001). The Complaint alleges that between November 27, 2001 and the filing of the Complaint, the Defendants fraudulently solicited and received funds from retail investors to engage in speculative trading of foreign currency futures contracts by telling investors that they would have individual accounts at Chase Manhattan Bank, insured up to \$25 million. The Complaint also alleges that IFC and Qualls misappropriated investor funds. The Complaint further alleges that the foreign currency future

contracts for which Defendants solicited investors were solicited were illegal, off-exchange futures contracts.

The Complaint charges that, with these acts, Defendants violated Sections 4(a), 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(i) and (iii) (2001), and Commission Regulations 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3) (2001).

The Commission has now submitted a Motion for Summary Judgment against Defendants IFC and Qualls pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rules 56.1 and 56.2. The Court has considered the submissions made in support of the Motion for Summary Judgment and being fully advised hereby:

GRANTS the Commission's Motion for Summary Judgment and finds that Defendants IFC and Qualls have violated Sections 4(a), 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6(a), 6b(a)(i) and (iii) (2001), and Commission Regulation 1.1(b)(1) and (3), 17 C.F.R. § 1.1(b)(1) and (3) (2001); and

ORDERS that judgment shall and hereby is entered in favor of the Commission and against Defendants IFC and Qualls. The Court now issues the following Order for Permanent Injunction, Civil Monetary Penalty, and Ancillary Equitable Relief against Defendants IFC and Qualls:

I.

ORDER FOR RELIEF

A. Permanent Injunction

IT IS ORDERED THAT:

1. The Defendants IFC and Qualls shall be permanently restrained, enjoined and prohibited:

- A. from engaging, directly or indirectly, in any act, omission or failure in violation of Sections 4(a), 4b(a)(2)(A) and (C) of the Act, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and the Dodd-Frank Wall Street Reform and Consumer Protection Act, Title VII (Wall Street Transparency and Accountability), §§ 701-774 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 6(a), 6b(a)(2)(A) and (C); and/or Commission Regulations 1.1(b)(1) and (3), 17 C.F.R. § 1.1(b)(1) and (3) (2010);
- B. from engaging directly or indirectly in:
- i. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(29) of the Act, as amended, 7 U.S.C. § 1a(29));
 - ii. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Commission Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2010)) (“commodity options”), and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, as amended, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”) for its personal account or for any account in which they have a direct or indirect interest;
 - iii. having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on their behalf;
 - iv. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, and/or forex contracts;
 - v. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, and/or forex contracts;
 - vi. 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 Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2010); and
 - vii. acting as a principal (as that term is defined in Commission Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2010)), 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 Commission Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2010).

2. The injunctive provisions of this Order shall be binding upon IFC and Qualls, upon any person who acts in the capacity of officer, agent, employee, attorney, successor and/or assign of IFC and Qualls, and upon any person who receives actual notice of this Order, by personal service or otherwise, insofar as he is acting in active concert or participation with IFC and Qualls.

B. Restitution

IT IS FURTHER ORDERED that:

1. IFC and Qualls shall pay restitution in the amount of \$814,733, plus post judgment interest (“Restitution Obligation”).
2. Post-judgment interest on the Restitution Obligation shall accrue commencing on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.
3. Appointment of Monitor: To effect payment by IFC and Qualls and the distribution of restitution, the Court appoints the National Futures Association (“NFA”) as Monitor. The Monitor shall collect restitution payments from IFC and Qualls and make distributions as set forth below. Because the Monitor is acting in the capacity of an agent of the Court in the collection and distribution of restitution, and these services are outside the normal duties of the Monitor, the Monitor shall not be liable for any action or inaction arising from its appointment as Monitor, other than actions involving fraud.
4. IFC and Qualls shall make its required restitution payments under this Order in the name of “IFC Settlement Fund” and shall send such restitution payments by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier’s,

or bank money order to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under a cover letter that identifies IFC and Qualls and the name and docket number of the proceeding. IFC and Qualls shall simultaneously transmit copies of the cover letter and the form of payment to (a) Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581, and (b) Chief, Office of Cooperative Enforcement, Division of Enforcement, at the same address.

5. The Monitor shall oversee the Restitution Obligation, and shall have the discretion to determine the manner of distribution of funds in an equitable fashion to participants or may defer distribution until such time as it may deem appropriate. In the event that the amount of restitution payments to the Monitor are of a de minimis nature such that the Monitor determines that the administrative costs of the making a restitution distribution to participants is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments as set forth in Section II.C, below.
6. IFC and Qualls shall execute any documents necessary to release funds that it has in any repository, bank, investment or other financial institution wherever located, in order to make partial or total payment toward the Restitution Obligation.
7. To the extent that any funds accrue to the U.S. Treasury as a result of the Restitution Obligation, such funds shall be transferred to the Monitor for disbursement in accordance with the procedures set forth in paragraph 5 of this Section.

C. Civil Monetary Penalty

IT IS FURTHER ORDERED that IFC and Qualls shall pay a civil monetary penalty in the amount of \$3.84 million, plus post-judgment interest, pursuant to Section 6c of the Act, 7

U.S.C. § 13a-1 (“CMP Obligation”). Post-judgment interest shall accrue beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.

D. Fees and Costs

IT IS FURTHER ORDERED that IFC and Qualls shall pay the fees and costs associated with the filing of this action in the amount of \$150.

E. Prohibition on Transfer of Funds

IT IS FURTHER ORDERED that IFC and Qualls 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 or property from the Court, the Commission, or any officer that may be appointed by the Court.

F. Notices

IT IS FURTHER ORDERED that all notices required to be given by this Order shall be sent by certified mail, return receipt requested, to:

Katherine Scovin Driscoll, Esq.
Senior Trial Attorney
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

All such notices to the Commission shall reference the name and docket number of this proceeding.

G. Priority of Monetary Penalties and Partial Payments

IT IS FURTHER ORDERED THAT:

1. All payments by IFC and Qualls pursuant to this Order shall first be applied to satisfaction of the Restitution Obligation, consistent with the authority granted the Monitor above. After satisfaction of the Restitution Obligation, payments by IFC and Qualls pursuant to this Order shall be applied to satisfy IFC's and Qualls' CMP Obligation.
2. Any acceptance by the Commission and/or Monitor of partial payment of the Restitution Obligation and/or CMP Obligation shall not be deemed a waiver of IFC and Qualls' obligations to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment from IFC and Qualls of any remaining balance.

H. Miscellaneous Provisions

IT IS FURTHER ORDERED THAT:

1. Prohibition on Transfer of Funds: IFC and Qualls 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 or property from the Court, the Plaintiff or any officer that may be appointed by the Court.
2. Invalidation: If any provision of this Order or the application of any provision or circumstance is held invalid, the remainder of this Order, and the application of the provision to any other person or circumstance, shall not be affected by the holding.

3. Continuing Jurisdiction of this Court: This Court shall retain jurisdiction of this case to assure compliance with this Order and for all other purposes related to this action.

Plaintiff is directed to serve a copy of this Order on defendant Qualls (as individual defendant and officer of IFC) who is currently being held by the Canadian Authorities, within 7 days of the date of this Order and immediately thereafter electronically file proof of such service with the court.

The Clerk of the Court is directed to enter judgment and close this case.

SO ORDERED.

DATED: Brooklyn, New York
January 30, 2012

S/ILG


DORA L. IRIZARRY
United States District Judge