

# 2004 BCSECCOM 90

## Order

**Financial Trading Group International, Kevin R. Moran,  
International Currency Traders, S.A., and Brian Tierney**

**Section 161 of the *Securities Act*, RSBC 1996, c. 418**

### **Background**

- ¶ 1 The Executive Director has entered into a Settlement Agreement with Financial Trading Group International, Kevin R. Moran, International Currency Traders, S.A. and Brian Tierney (collectively, the Respondents), which is attached as Schedule A.
- ¶ 2 **The Order**  
The Executive Director, considering it to be in the public interest to do so, orders, by consent, that under section 161(1)(b) of the *Securities Act*, RSBC 1996, c. 418 the Respondents cease trading in any securities or exchange contracts, including but not limited to foreign exchange contracts until such time as they are registered under the Act.
- ¶ 3 February 2, 2004
- ¶ 4 Brenda Leong  
A/Executive Director

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## Schedule A Settlement Agreement

**Financial Trading Group International, Kevin R. Moran,  
International Currency Traders, S.A., and Brian Tierney**

*Securities Act, R.S.B.C. 1996, c. 418 (the Act)*

- ¶ 1 The following settlement of issues has been reached between Financial Trading Group International (Financial), Kevin R. Moran (Moran), International Currency Traders, S.A. (ICT) and Brian Tierney (Tierney) (collectively, the Respondents) and the Executive Director.

### **Agreed Statement of Facts**

- ¶ 2 As the basis for the undertakings and orders referred to in this settlement, the Respondents acknowledge the following facts as correct:

### **The Respondents**

1. The Respondents are not residents of British Columbia. Financial, Moran, and Tierney are residents of Costa Rica. ICT is a resident of Panama.
2. Financial is engaged in the business of foreign currency trading on behalf of clients (Investors).
3. Until May 2003, Investors would remit their investment funds to Capital Management International (Capital) in its capacity as a clearing house for investment by Financial.
4. In May 2003, Financial stopped using Capital to receive Investor funds and began using ICT as its clearing house.
5. Moran is listed as the Associate Vice-President & General Manager of Financial.
6. Moran and Tierney are currency traders or brokers employed with Financial.
7. None of the Respondents have ever been registered in any capacity under the Act.

### **Commission Proceedings**

8. On January 20, 2003, the Executive Director issued temporary orders against Financial and Moran that:
  - (a) under section 161(1)(b) of the Act, that Financial and Moran cease trading in any securities or exchange contracts; and

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- (b) under section 161(1)(c) of the Act that any or all of the exemptions described in sections 44 to 47, 74, 75, 98 or 99 of the Act, do not apply to Financial and Moran.
- 9. On January 7, 2004 the Executive Director amended the temporary order to include ICT and Tierney.

### **Summary of Activities**

- 10. During the period from at least March of 2002 forward (the Relevant Period Financial, by way of its website, traded in “off-exchange foreign currency option contracts” for Investors resident in British Columbia and elsewhere (the Program).
- 11. Investors in the Program were required to send their funds by bank draft or wire transfer to Capital and since May 2003 to ICT.
- 12. Residents of British Columbia and elsewhere have been solicited by Financial.
- 13. In October 2002, a Vancouver, British Columbia resident (the Vancouver Investor) received an unsolicited telephone call at her home from a representative of Financial.
- 14. In October 2002, the Vancouver Investor spoke with Moran by telephone where he explained the business of Financial and currency option trading. During this telephone conversation, Moran also advised the Vancouver Investor that her investments had the potential of increasing up to 300 percent.
- 15. The Vancouver Investor invested \$3,000 USD initially with Financial through Moran as broker.
- 16. Between October 2002 and September 2003, the Vancouver Investor invested a total of \$24,000 CDN with Financial through Moran as a broker.
- 17. Financial, Moran and Tierney traded in securities on behalf of the Vancouver Investor when temporary orders were in place that prohibited Financial and Moran from trading. In particular:
  - (a) in February or March 2003, Moran, while employed at Financial, recommended that the Vancouver Investor transfer her existing holdings with Financial into U.S. index dollar puts;
  - (b) on June 16, 2003, Moran, while employed at Financial, sold the Vancouver Investor currency options namely, 20 long September U.S. dollar index puts;

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(c) on September 2, 2003, Tierney, who was unaware of the temporary orders and not subject to them until January 7, 2004, but while employed at Financial, sold the Vancouver Investor currency options, namely 3 long November Japanese puts; and

(d) these trades were made through Financial.

18. The various acts, solicitations and conduct carried out by the Respondents were in furtherance of trades by Financial to British Columbia residents. None of these Respondents were registered under the Act and none of the exemptions from the registration requirements were available for these trades. The Respondents therefore traded in securities without being registered under the Act and without an exemption from the registration requirements of the Act, contrary to section 34(1)(a) of the Act.

19. Financial, Moran and Tierney acted as advisers to individuals in British Columbia without being registered in accordance with the requirements of the Act, and without an exemption from the registration requirements of the Act, contrary to section 34(1)(c) of the Act.

20. Moran and Financial traded in securities when the temporary orders were in place, contrary to the public interest.

### ¶ 3 **Undertakings**

1. Tierney undertakes to pay to the British Columbia Securities Commission the sum of \$5,000, of which \$1,500 represents the costs of the investigation.
2. Moran undertakes to pay to the British Columbia Securities Commission the sum of \$15,000, of which \$1,500 represents the costs of the investigation.
3. Financial undertakes to post on its website a notice that all investments including foreign exchange contracts are not available to residents of British Columbia.
4. The Respondents undertake not to say anything, in writing or orally, which may contradict the terms of this settlement or call those terms into question.

### **Order**

- ¶ 4 The Respondents consent to an order by the Executive Director that under section 161(1)(b) of the Act, the Respondents cease trading in any securities or exchange contracts, including but not limited to foreign exchange contracts until such time as they are registered under the Act.

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### Waiver

- ¶ 5 The Respondents waive any right they may have, under the Act or otherwise, to a hearing, hearing and review, judicial review or appeal related to, in connection with, or incidental to this settlement.

### Counterpart

- ¶ 6 This Settlement Agreement may be executed in counterpart or by facsimile execution and all such counterparts of executed copies or faxed copies shall be read or construed together as if they formed one originally executed document.

- ¶ 7 January 30, 2004

- ¶ 8 Financial Trading Group International

“Erika Vindas”

Authorized Signatory

“A. Grandeso” )

Witness Signature )

Alejandra Grandeso )

Witness Name (please print) )

\_\_\_\_\_ )

San Jose, Costa Rica )

Address )

Notary Public )

Occupation )

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¶ 9 January 30, 2004

“Kevin R. Moran”\_\_\_\_\_

¶ 10 Kevin R. Moran

“A. Grandeso”\_\_\_\_\_ )

Witness Signature )

Alejandra Grandeso\_\_\_\_\_ )

Witness Name (please print) )

\_\_\_\_\_ )

San Jose, Costa Rica\_\_\_\_\_ )

Address )

Notary\_\_\_\_\_ )

Occupation )

January 30, 2004

¶ 11 International Currency Traders, S.A.

“Russell Finkelstein”\_\_\_\_\_

Authorized Signatory

“Priscilla Villa F.”\_\_\_\_\_ )

Witness Signature )

Priscilla Villa F.\_\_\_\_\_ )

Witness Name (please print) )

\_\_\_\_\_ )

Gaudalupe\_\_\_\_\_ )

Address )

Secretary\_\_\_\_\_ )

Occupation )

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¶ 12 January 30, 2004

¶ 13 “B. Tierney”  
Brian Tierney

“A. Grandeso” )  
Witness Signature )  
Alejandra Grandeso )  
Witness Name (please print) )  
\_\_\_\_\_ )  
San Jose, Costa Rica )  
Address )  
Notary )  
Occupation )

¶ 14 February 2, 2004

¶ 15 Brenda Leong  
A/Executive Director