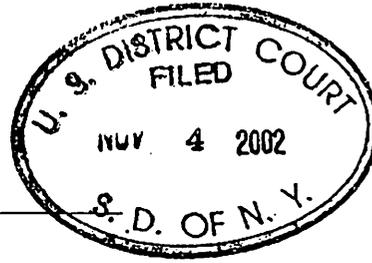


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



SECURITIES AND EXCHANGE COMMISSION,  
Plaintiff,

v.

98 Civ. 1460 (MP)

CHRISTIAN SCHINDLER, a/k/a "RUDOLPH GERNER,"  
a/k/a "RUDY GERNER," INTER CAPITAL  
BROKERAGE, INC., INTERCAP FOREX BROKERAGE,  
INC., and INTER-CAPITAL BROKERAGE U.S.A. INC.,

# 02,2487

Defendants.

**JUDGMENT BY DEFAULT AGAINST DEFENDANT CHRISTIAN SCHINDLER,  
a/k/a "RUDOLPH GERNER," a/k/a "RUDY GERNER"**

Plaintiff Securities and Exchange Commission (the "Commission") having commenced this action on February 26, 1998, by filing its Complaint ("Complaint") for injunctive and other equitable relief, charging, among others, Defendant Christian Schindler ("Schindler"), also known as "Rudolph Gerner" or "Rudy Gerner," with violating Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5, and following the issuance and timely service of a Summons and Complaint upon Schindler on March 13, 1998, and following Schindler's failure to answer or otherwise respond to the Complaint within the time provided by the Federal Rules of Civil Procedure, and the Court having considered the Commission's Notice of Motion, Memorandum of Law in Support of Plaintiff's Motion For Default Judgment, Declaration of Brenda Wai Ming Chang executed on October 11, 2002, and all other papers relevant to the Commission's motion for a default

judgment, and the Court having entered its Findings of Fact and Conclusions of Law dated November 4, 2002 in which the Court granted the Commission's motion for default judgment:

**NOW THEREFORE,**

**I.**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Schindler be, and hereby is, permanently enjoined and restrained from, directly or indirectly, singly or in concert, in the offer or sale of any security, by use of the mails, or any means or instrumentality of transportation or communication in interstate commerce:

- (a) employing any device, scheme or artifice to defraud;
- (b) obtaining money or property by means of an untrue statement of material fact or omitting to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading; and
- (c) engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon the purchaser,

in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

**II.**

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Schindler be, and hereby is, permanently enjoined and restrained from, directly or indirectly, singly or in concert, in connection with the purchase or sale of any security, by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- (a) employing any device, scheme, or artifice to defraud;

- (b) making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person,

in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5.

### III.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Schindler shall disgorge the sum of \$6,045,996.32, representing \$4,191,298 in disgorgement of ill-gotten gains derived from the fraudulent conduct alleged in the Complaint plus prejudgment interest of \$1,854,698.32. Defendant Schindler shall satisfy this obligation by paying \$6,045,996.32 within ten business days to the Clerk of this Court, together with a cover letter identifying Schindler as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant Schindler shall simultaneously transmit photocopies of such payment and letter to Brenda Wai Ming Chang, Esq., Staff Attorney, Securities and Exchange Commission, Northeast Regional Office, 233 Broadway, 13<sup>th</sup> Floor, New York, New York 10279. The cover letter also shall contain the investigation name “In the Matter of Inter Capital Brokerage, Inc. and Related Entities” and the case number assigned by the Commission staff “NY-6453.” By making this payment, Defendant Schindler relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant Schindler. The Clerk shall deposit the funds into an interest bearing account with the Court

Registry Investment System (“CRIS”). These funds, together with any interest and income earned thereon (collectively, the “Fund”), shall be held by the CRIS until further order of the Court. In accordance with the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States. The Commission may propose a plan to distribute the Fund subject to the Court’s approval.

#### IV.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant Schindler shall pay civil penalties as a result of his fraudulent conduct in the amount of \$1,000,000. Defendant Schindler shall satisfy this obligation by paying the same within thirty business days hereof to the Clerk of this Court, together with a cover letter identifying Schindler as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant Schindler shall simultaneously transmit photocopies of such payment and letter to Brenda Wai Ming Chang, Esq., Staff Attorney, Securities and Exchange Commission, Northeast Regional Office, 233 Broadway, 13<sup>th</sup> Floor, New York, New York 10279. The cover letter also shall contain the investigation name “In the Matter of Inter Capital Brokerage, Inc. and Related Entities” and the case number assigned by the Commission staff “NY-6453.” By making this payment, Defendant Schindler relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant Schindler. The Clerk shall deposit the funds into an interest bearing account with the CRIS. These funds, together with any interest and income earned thereon (collectively, the “Civil Penalties Fund”), shall be held by the CRIS

until further order of the Court. In accordance with the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Civil Penalties Fund a fee equal to ten percent of the income earned on the Civil Penalties Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States. The Commission may propose a plan to distribute the Civil Penalties Fund subject to the Court's approval. Such a plan may provide that the Civil Penalties Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.

V.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pending complete payment of the monies set forth in paragraphs III. and IV. above, Defendant Schindler, and each of his agents, servants, employees, attorneys, and those persons in active concert or participation with Defendant Schindler who receive actual notice of this Order by personal service, facsimile service or otherwise, and each of them, hold and retain within their control, and otherwise prevent any withdrawal, transfer, pledge, encumbrance, assignment, dissipation, concealment or other disposal of any assets, funds, or other property (including money, real or personal property, securities, commodities, choses in action or other property of any kind whatsoever) currently held by Defendant Schindler or under his control, whether held in his name or for his direct or indirect beneficial interest wherever situated, and directing each of the financial or brokerage institutions, debtors and bailees, or any other person or entity holding such assets, funds or other property of Defendant Schindler to hold or retain within its control and prohibit the withdrawal, removal, transfer or other disposal of any such assets, funds or other property, except as provided in paragraphs III. and IV. above.

VI.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pursuant to Rule 65(d) of the Federal Rules of Civil Procedure, this Final Judgment shall be, and is, binding upon Defendant Schindler, and each of his officers, agents, servants, employees, and attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

VII.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that this Court shall retain jurisdiction of this matter for all purposes, including, but not limited to, implementing and enforcing the terms and conditions of this Final Judgment.

VIII.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that there being no just reason for delay in the entry of this Order, the Clerk of the Court is hereby directed to enter this Final Judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

Dated: November 4, 2002  
New York, New York

  
\_\_\_\_\_  
MILTON POLLACK  
SENIOR UNITED STATES DISTRICT JUDGE

**THIS DOCUMENT WAS ENTERED  
ON THE DOCKET ON \_\_\_\_\_**