

**UNITED STATES OF AMERICA**  
before the  
**SECURITIES AND EXCHANGE COMMISSION**  
May 27, 2004

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-11503**

**In the Matter of**

**CURRENCY TRADING  
INTERNATIONAL, INC.,  
CRAIG A. CUNNINGHAM,  
JAMES R. KELSALL and  
CHRISTIAN J. WEBER,**

**Respondents.**

**ORDER INSTITUTING  
ADMINISTRATIVE PROCEEDINGS  
PURSUANT TO SECTION 15(b) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Currency Trading International, Inc. (“CTI”), Craig A. Cunningham (“Cunningham”), James R. Kelsall (“Kelsall”) and Christian J. Weber (“Weber”) (collectively, “Respondents”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A.     RESPONDENTS**

1.       CTI is a Florida corporation wholly owned by Brian R. Moore (now deceased) and Cunningham. Its principal office was in Newport Beach, California, and it had other offices in San Diego, California, Cleveland, Ohio, and Akron, Ohio. CTI became registered with the Commission as a broker-dealer in December 1993, and was a foreign currency options participant on the Philadelphia Stock Exchange from the fall of 1994 through the fall of 1998. CTI employed a total of approximately 350 people during its five years of operation, the vast majority of which were registered representatives. CTI ceased conducting business on December 31, 1998, but has not requested to withdraw its broker-dealer registration with the Commission.

2. Cunningham, age 47, resided at times relevant in Irvine, California and now resides in Leawood, Kansas. Cunningham owned 50% of CTI and was CTI's vice-president. From the summer of 1994 to October 1996, Cunningham directly solicited CTI clients, supervised registered representatives and managed CTI's operations. From October 1996 until the fall of 1998, Cunningham ceased direct solicitations and undertook compliance responsibilities in addition to his supervision and management roles. At times relevant, Cunningham held Series 3, 4, 7, 15, 24 and 63 licenses.

3. Kelsall, age 33, resides in Barberton, Ohio. Kelsall worked as a sales manager at CTI's Akron, Ohio office from the fall of 1996 until May 1997, and then as a sales manager at its Cleveland, Ohio office until January 1998. At times relevant, Kelsall held Series 15 and 63 licenses.

4. Weber, age 32, resides in Fountain Valley, California. He worked as a registered representative at CTI from June until December 1997, and then as a regional manager until January 1998. At times relevant, Weber held Series 15 and 63 licenses.

## B. THE DISTRICT COURT PROCEEDINGS

1. On January 6, 2000, the Commission filed a Complaint in the United States District Court for the Central District of California ("Court"). The case was entitled Securities and Exchange Commission v. Currency Trading International, Inc., et al., Case No. CV 00-0012 AHS. The case was later reassigned to a different Judge and became Case No. CV 02-5143 PA (CTx).

2. On February 2, 2004, the Court issued its Findings of Fact and Conclusions of Law. On May 3, 2004, the Court entered a Revised Final Judgment of Permanent Injunction, Disgorgement, Prejudgment Interest, and Civil Penalties against Defendants CTI, Moore, Cunningham, Kelsall and Weber. The Final Judgment enjoins CTI, Moore, Cunningham, Kelsall and Weber from violating Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

3. In the Revised Final Judgment, the Court imposed a civil penalty of \$550,000 against CTI, and civil penalties of \$110,000 each against Moore, Cunningham, Kelsall and Weber. The Court ordered CTI to disgorge \$32,844,444.24, plus prejudgment interest of \$8,602,149.45. The Court further ordered Moore and Cunningham each to disgorge the sum of \$4,361,993.00 plus prejudgment interest of \$1,142,431.13. Kelsall was ordered to disgorge \$147,000, plus prejudgment interest of \$38,500.15, and Weber was ordered to disgorge \$440,000, plus prejudgment interest of \$115,238.54.

4. The Court found in its Findings of Fact and Conclusions of Law that:

a. Moore and Cunningham created and at all times controlled CTI and its brokers. They supervised brokers and monitored broker telephone solicitations. CTI sold foreign currency options traded on the Philadelphia Stock Exchange. CTI operated as an illegal boiler room, in that CTI and the individual Respondents sold speculative investments in foreign currency options through high-pressure sales tactics, soliciting new

customers by telephone and deliberately creating a false expectation of gain without risk. CTI brokers downplayed the risk disclosures contained in the written documents by telling their customers that the documents were a mere formality or were “unduly negative.” CTI brokers also told their customers falsely that they would “monitor the customer’s account” and take action before the customer could lose money. Brokers repeatedly promised customers a false expectation of gain and then told customers to “trust us.” CTI brokers told customers that they would “double or triple” their money within a week or even days. These statements were false.

b. CTI, with the knowledge of Moore and Cunningham, refused to disclose to CTI customers how CTI would manage their accounts. CTI, at the direction of Moore, refused to execute sell orders for customers, unless the customer also agreed to purchase another options position, i.e., that the customer must engage in a “net trade,” the sale of one option position and the immediate purchase of a new option position. A “net trade” resulted in two commissions to CTI, 8% on the sale of the position and another 8% on the new purchase. CTI, at the insistence of Moore, also engaged in “block trades” of customer positions without prior customer authorization. These “block trades” constituted unauthorized trades in the customers’ accounts. CTI, with the knowledge and direction of Moore and Cunningham, failed to disclose to its customers that the firm would refuse to return a customer’s money unless the customer made a formal written demand and/or even threatened litigation.

c. Moore and Cunningham each owned 50% of CTI, and controlled CTI and its brokers at all times. Moore, Cunningham, and Kelsall directed brokers as to what they should tell customers. Weber functioned as a roving sales manager at CTI and trained other brokers. Kelsall was the office manager at the Akron, Ohio office of CTI and later opened the Cleveland, Ohio office.

### **III.**

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

- A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations; and
- B. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 15(b) of the Exchange Act.

### **IV.**

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed and before an Administrative Law Judge to be designated by further order as provided by Rule 200 of the Commission’s Rules of Practice, 17 C.F.R. § 201.200.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f), and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 221(f), and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Jonathan G. Katz  
Secretary