



**SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. MONEX INTERNATIONAL LTD., dba PACIFIC COAST COIN EXCHANGE LOUIS E. CARABINI, JR., Defendants.**

**No. CV 74-3634-HF**

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

*1975 U.S. Dist. LEXIS 16495*

**August 20, 1975, Decided**

**August 20, 1975, Filed**

**COUNSEL:** [\*1] Gerald E. Boltz, Regional Administrator, Ralph H. Erickson, Assistant General Counsel, Michael D. Donahue, Chief, Branch of Enforcement, Sanya Ryan, Attorney, Attorneys for Securities and Exchange Commission, U.S. Courthouse, Room 1043, 312 North Spring Street, Los Angeles, California 90012, Telephone: (213) 688-5871.

Wyman, Bautzer, Rothman & Kuchel, Attorneys for the Defendants Monex International, Ltd., dba Pacific Coast Coin Exchange Louis E. Carabini, Jr.

**JUDGES:** Ferguson

**OPINION BY:** WARREN J. FERGUSON

**OPINION**

FINAL JUDGMENT OF PERMANENT INJUNCTION AS TO MONEX INTERNATIONAL LTD., DBA PACIFIC COAST COIN EXCHANGE AND LOUIS E. CARABINI, JR., AND STIPULATION; CERTIFICATION AUTHORIZATION; AUTHORIZATION AND DESIGNATION.

IT APPEARING to this Court that the Plaintiff, SECURITIES AND EXCHANGE COMMISSION (hereinafter referred to as plaintiff) having filed and served its complaint herein on December 12, 1974 and defendants MONEX INTERNATIONAL LTD., dba PACIFIC COAST COIN EXCHANGE and LOUIS E. CARABINI, JR. (hereinafter referred to as defendants) having been represented by counsel, having acknowledged receipt of a copy of the Summons and Complaint filed herein and having admitted the jurisdiction [\*2] of

this Court, for purposes of this proceeding only over themselves and the subject matter of this action; having entered general appearances; having been fully advised and informed of their rights to a judicial determination, and plaintiff and defendants having agreed upon a basis for settlement of this action including the entry of a Final Judgment of Permanent Injunction as to MONEX INTERNATIONAL LTD. dba PACIFIC COAST COIN EXCHANGE and LOUIS E. CARABINI, JR. and it further appearing that there has been no trial of the matters alleged in the complaint, and that the defendants have waived the making of findings of fact and conclusions of law or adjudications made with respect to any matter alleged in or arising out of the Complaint, and appearing to this Court that defendants have consented to the entry of a Final Judgment of Permanent Injunction as prayed for in the Complaint without admitting or denying the allegations contained therein on the terms specified in the annexed Stipulation and Consent filed concurrently herewith enjoining said defendants from engaging in acts and practices which constitute and will constitute violations of Sections 5(a), 5(c) and 17(a) of the Securities [\*3] Act of 1933, as amended [15 U.S.C. 77e(a), 77e(c), 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934, as amended [15 U.S.C. 78j(b)], and Rule 10b-5 thereunder [17 CFR 240.10b-5] as prayed for in the plaintiff's Complaint, and it further appearing that no notice of hearing upon the entry of said Final Judgment of Permanent Injunction by Consent need be given, the Court being fully advised in the premises, and there being no just reason for delay;

I

1975 U.S. Dist. LEXIS 16495, \*

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendants, MONEX INTERNATIONAL, LTD., dba PACIFIC COAST COIN EXCHANGE and LOUIS E. CARABINI, JR., their officers, directors, subsidiaries, affiliates, agents, servants, employees, successors and assigns and all persons acting in active concert or participation with them, and each of them, be and hereby are permanently restrained and enjoined from, directly or indirectly:

A. Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, through the use or medium of any prospectus or otherwise, any securities, including investment contracts, evidences of indebtedness, certificates of interest [\*4] or participation in a profit-sharing agreement or interest or instrument commonly known as a security regarding silver coins, gold coins, silver bullion, foreign currencies or other precious metals or commodities or any other securities unless and until a registration statement has been filed with the Securities and Exchange Commission as to such securities.

B. Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell any securities, including investment contracts, evidences of indebtedness, certificates of interest or participation in a profit-sharing agreement or interest or instrument commonly known as a security regarding silver coins, gold coins, silver bullion, foreign currencies or other precious metals or commodities or any other securities through the use or medium of any prospectus or otherwise unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities.

C. Carrying such securities or causing them to be carried through the mails or in interstate commerce by any means or instruments of transportation for the purpose of sale or delivery [\*5] after sale unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities.

provided, however, that nothing in the foregoing portion of the requested injunction shall apply to any security or transaction which is exempt from the provisions of Section 5 of the Securities Act of 1933, as amended [15 U.S.C. 77e].

## II

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendants MONEX INTERNATIONAL, LTD. dba PACIFIC COAST COIN EXCHANGE and LOUIS E. CARABINI, JR., their officers, directors, subsidiaries, affiliates, agents, servants, employees, successors and assigns and all persons acting in active concert or participation with them, and each of them, be and hereby are permanently enjoined in the offer for sale, sale, and in connection with the sale or purchase of any securities, including investment contracts, evidences of indebtedness, certificates of interest or participation in a profit-sharing agreement or interest or instrument commonly known as a security regarding silver coins, gold coins, silver bullion, foreign currencies or other precious metals or commodities or any other securities of any issuer, by [\*6] the use of the mails or any means or instruments of transportation or communication in interstate commerce, or any instrumentality of interstate commerce, from directly or indirectly:

A. Engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person or employing any device, scheme or artifice to defraud including, but not limited to:

(1) Selling said securities to persons who because of their lack of knowledge, experience or financial net worth, could not reasonably be expected to be able to appreciate the risks involved or bear the risk or burden of an investment in said security;

(2) Using devices, schemes, brochures, advertisements or other practices which present a misleading impression of the nature and details of defendants' business and operations, the investment offered by defendants and the use to which investors' funds are put;

1975 U.S. Dist. LEXIS 16495, \*

(3) Using investors' funds or carrying on a business in a manner contrary to representations made by defendants;

(4) Commingling investors' funds or putting those funds at the risk of the defendants' enterprise without full disclosure of these details;

(5) [\*7] Selling out or closing out investors at a price lower than the best available at the time on the independent market;

(6) Setting prices other than in the manner disclosed;

(7) Employing negligent or otherwise unfair margin call practices;

(8) Failure to send investors reasonable notice of a margin call;

(9) Claiming to give investment advice to investors when, in fact, defendants' only purpose and business is to sell its products;

(10) Paying undisclosed fees or commissions to persons for referring investors or causing investors to come to or invest with defendants.

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, regarding, but not limited to:

(1) The merits, advantages and risks of investing in silver coins, gold coins, precious metals, currencies or other commodities;

(2) The performance of silver as an investment in bad times or in times of an economic recession or depression;

(3) Any success from investing in silver or in defendants' securities by any famous [\*8] person or anyone else;

(4) The world supply of silver, the projected world supply of silver, the above ground supply of silver, the U.S. Government's stockpile of silver;

(5) The mining of silver, the expected production from silver mines, the possibilities of an increase in silver mining;

(6) The above ground supply of silver, the Indian silver hoard, the possibilities of increased silver coming into production from above ground supplies;

(7) Silver salvage and the possibilities of greater salvage;

(8) The prospects of or projections of a shortage of silver or a developing shortage of silver;

(9) The price history of silver and projections for silver prices; profits from investments at specific times without disclosures of whether such periods are representative;

(10) The commission structure for salesmen and the fact if true, that salesmen receive commissions on sales but not on repurchases;

(11) The investment advice offered by PCCE;

1975 U.S. Dist. LEXIS 16495, \*

(12) The use PCCE makes of investors' funds or funds received from investors;

(13) The custody and storage of any commodities ordered by investors;

(14) The business and operations of [\*9] the issuer or entity soliciting investments;

(15) Whether the issuer or entity soliciting investments acts as broker or dealer for the investor;

(16) Whether the issuer or entity soliciting investments acquires or stores commodities ordered or purchased or covers or hedges obligations to investors;

(17) Whether the issuer or entity soliciting investments purports to cover or hedge its obligations to investors, the nature and details of such activities and material risks involved;

(18) The nature of the interest received by investors;

(19) Similarities between the issuer or entity soliciting investments and securities or futures or commodity brokers, dealers, or exchanges;

(20) The amounts, nature and basis of fees and commissions charged by the issuer or entity soliciting investments;

(21) The basis for the prices charged and method of determining such prices;

(22) Margin agreements, requirements, calls and the rights and obligations of investors in these

margin arrangements and the risks relating to margin calls;

(23) Liquidity of the investments sold and any risks related thereto;

(24) Any representations or agreements to [\*10] repurchase the investments offered and any risks related to the prices of such repurchase or possible inability or refusal to repurchase;

(25) The agreement for delivery of commodities and the actual experience and practice of making delivery;

(26) The auditing firm or any audits of the issuer or entity soliciting investments;

(27) The fact, nature and amounts of fees or commissions paid to persons or entities relating to recommending these investments or the issuer or entity soliciting investments or relating to referring investors to or causing investors to go into these investments;

or any other act, practice or course of business in violation of Section 10(b) of the Securities Exchange Act of 1934, as amended [15 U.S.C. 78j(b)], and Rule 17 CFR 240.10b-5 thereunder or Section 17(a) of the Securities Act, as amended [15 U.S.C. 77q(a)] in the offer for sale or sale or in connection with the purchase or sale of any security.

### III

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendants MONEX INTERNATIONAL, LTD. dba PACIFIC COAST COIN EXCHANGE and LOUIS E. CARABINI, JR., their officers, directors, subsidiaries, affiliates, agents, servants, [\*11] employees, successors and assigns and all persons acting

1975 U.S. Dist. LEXIS 16495, \*

in active concert or participation with them, and each of them, be and hereby are permanently enjoined from the use of the mails or any means or instrumentality of interstate commerce, directly or indirectly,

A. to employ any device, scheme or artifice to defraud;

B. to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

C. to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person,

in, or in connection with (i) an offer to make, or the making of, any transaction for the purchase, sale or delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins pursuant to a standardized contract commonly known to the trade as a margin account margin contract, leverage account or leverage contract or (ii) the maintenance or carrying of any such contract. Any proceeding for the enforcement of any violation of paragraph III of this injunction shall be initiated solely by [\*12] the Commodity Futures Trading Commission. The defendants acknowledge that their conduct of business as of the date of this final judgment is subject to Section 217 of the Commodity Futures Trading Commission Act of 1974 [88 Stat. 1389, Pub. L. 93-463].

IT IS FURTHER ORDERED that the defendant MONEX INTERNATIONAL, LTD. dba PACIFIC COAST COIN EXCHANGE and LOUIS E. CARABINI, JR. provide a copy of this order to all present and future officers, directors, and sales representatives of MONEX INTERNATIONAL, LTD.

Dated: AUG 20, 1975

IT IS SO ORDERED.

WARREN J. FERGUSON

United States District Judge

It is hereby stipulated by and between the Securities and Exchange Commission (hereinafter referred to as the Commission), plaintiff in the above-styled civil action, and Monex International Ltd., and Louis E. Carabini, Jr. (hereinafter referred to as defendants), defendants in said action as follows:

1. Defendants hereby acknowledge receipt of a copy of the complaint filed herein by the plaintiff Commission and service of summons upon them.

2. For purposes of this proceeding, defendants admit the jurisdiction of this Court over them and over the subject matter of this action [\*13] and enter a general appearance.

3. Defendants consent to the entry by the Court of the Final Judgment of Permanent Injunction in the form filed herewith without admitting or denying the allegations contained in the Complaint except as otherwise provided by this consent, at any time after the date hereof upon motion or presentation of either party without notice of any further proceedings.

4. Annexed hereto as Exhibit A and made a part hereof is a certificate dated August 5, 1975, of the Secretary of Monex International Ltd., dba Pacific Coast Coin Exchange, as to resolution duly adopted by the Board of Directors of this corporation evidencing its consent to this stipulation.

5. Defendants hereby waive the entry of findings of fact and conclusions of law under *Rule 52 of the Federal Rules of Civil Procedure*.

6. Without admitting or denying the allegations contained in the complaint, defendants waive an answer and all defenses to the complaint referred to in paragraph 1.

7. Defendants state that they enter into this consent voluntarily and that, other than the statements contained in this Stipulation, no promises, threats, or assurances whatsoever have been made by plaintiff [\*14] Commission, its staff, or any agent thereof to induce them to enter into this consent.

Dated: August 20, 1975

MONEX INTERNATIONAL LTD. by Anthony R. Pierno

/s/ for LOUIS E. CARABINI, JR.

CERTIFICATE

The undersigned, Manila L. Furr, hereby certifies:

That she is now and at all times herein mentioned has been the duly elected, qualified and acting Secretary of Monex International, Ltd., a duly organized and existing California corporation, and in charge of the minute books and corporate records of said corporation; that attached hereto and marked Exhibit A is a full, true and correct copy of a resolution duly adopted by the board of directors of said corporation at a meeting thereof duly held on July 30, 1975, at which meeting a quorum of said board was at all times present and acting; and that said resolution has

1975 U.S. Dist. LEXIS 16495, \*

not been modified or rescinded and is at the date of this certificate in full force and effect.

#### EXHIBIT A

WHEREAS, this Corporation is a defendant in Civil Action No. 74 3634HP titled *Securities and Exchange Commission of the United States v. Monex International, Ltd., et al.*, which action is pending in the United States District [\*15] Court for the Central District of California; and

WHEREAS, since the inception of said action the Corporation has been involved in extensive discussions and negotiations through counsel with the Securities and Exchange Commission and more recently with the Commodity Futures Trading Commission, all intended to bring about a resolution of said action; and

WHEREAS, a proposed settlement of said action in the form of the Stipulation and Consent Decree attached hereto has been tentatively agreed to by the Staff of the Securities and Exchange Commission and its Los Angeles Regional Office and said proposed settlement has been concurred in by the Commodity Futures Trading Commission Staff, and each of said Commissions is scheduled to consider all or relevant parts of such proposal at an early date; and

WHEREAS, it would be in the best interest of this Corporation, would result in the least disruption of business, and would permit the Corporation to resume a more normal pattern of business than has been the case since the inception of said action, to settle said action promptly on the terms proposed or on substantially similar terms:

NOW, THEREFORE, BE IT RESOLVED, that the [\*16] President of this Corporation, Louis E. Carabini, be and hereby is authorized on behalf of the Company to enter into a settlement with the Securities and Exchange Commission

of said action on substantially the terms presented to this meeting and that he or any other officer whom he may designate is hereby authorized to sign, or approve signing by counsel, of all agreements, stipulations, and/or such other documents as may be required in order to accomplish said settlement.

#### AUTHORIZATION

I hereby authorize Wyman, Bautzer, Rothman and Kuchel and Jerald S. Schutzbank, Stuart Benjamin or any other partner or associate of that firm to sign on my behalf a Stipulation for the Entry of a Final Judgment of Permanent Injunction against me in the action known as Securities and Exchange Commission vs. Monex International, Ltd., et al., Civil Action #74-3634-HP in the United States District Court for the Central District of California.

I acknowledge having reviewed copies of the proposed Stipulation and Judgment prior to signing this authorization.

DATED: August 19, 1975.

LOUIS E. CARABINI

#### DESIGNATION AND AUTHORIZATION

Persuant to the resolution of the Board of Directors of [\*17] Monex International, Ltd. of July 30, 1975, I, Louis E. Carabini, Jr., do hereby designate and authorize Anthony R. Pierno to sign, execute, and approve all agreements, stipulations, and/or such other documents as may be required in order to accomplish the settlement as said forth in said resolution of July 30, 1975.

Louis E. Carabini