

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF determining
Whether there has been a
Violation of the Commodity Act by:

WALTER, SCOTT, LEV & ASSOCIATES
and
ARTHUR K. RUIZ,

Respondents.

SDO – 70 – 99

ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL
ORDER TO CEASE AND DESIST

Case No. 98-07-221

THE STATE OF WASHINGTON TO:

WALTER, SCOTT LEV & ASSOCIATES
90 JOHN STREET, SUITE 702
NEW YORK, NEW YORK 10038

And

ARTHUR K. RUIZ
38 EUCLID AVE
NEW YORK, NEW YORK 11208

On July 21, 1999, the Securities Administrator of the State of Washington issued a Summary Order to Cease and Desist with a Notice of Intention to Order Respondents to permanently Cease and Desist (“Summary Order”) to Walter, Scott, Lev & Associates (“Walter Scott”) and Arthur K. Ruiz (“Ruiz”).

The Summary Order, together with a Notice of Opportunity to Defend and Opportunity for Hearing (“Notice of Opportunity for Hearing”) and an Application for Adjudicative Hearing (“Application for Hearing”) thereon, were sent by certified mail to Walter Scott and received on July 26, 1999 by respondent Walter Scott. The Summary Order, together with a Notice of Opportunity to Defend and Opportunity for Hearing (“Notice of Opportunity for Hearing”) and an Application for Adjudicative Hearing (“Application for Hearing”) thereon, were sent by certified mail to the last known address of respondent Ruiz on July 23, 1999. The Notice of

1 Opportunity for Hearing advised Respondents that they had twenty days from the date they received the notice to
2 file a written application for an administrative hearing on the Summary Order.

3 Respondents failed to request an administrative hearing within twenty days of their receipt of the Summary
4 Order and Notice of Opportunity for Hearing, either on the Application for hearing provided or otherwise.

5 The Securities Administrator therefore will adopt as the final findings of fact and conclusions of law as set
6 forth in the Summary Order.

7 The Securities Administrator makes the following findings of fact or conclusions of law:

8 **FINDINGS OF FACT**

9 RESPONDENTS

10 1. Walter, Scott, Lev & Associates (“Walter Scott”) is a firm doing business in commodity contracts and
11 options, involving foreign exchange or interbank traded currency contracts. Walter Scott has its principal place of
12 business at 90 John Street, Suite 702, New York, New York 10038.

13 2. Walter Scott is not currently registered to sell commodity contracts or commodity options with the
14 Commodity Futures Trading Commission (“CFTC”).

15 3. Walter Scott is not currently registered as a commodity broker-dealer in the state of Washington, has
16 not previously been so registered, and is not a person exempt from the prohibition of RCW 21.30.020.

17 4. Walter Scott is not currently registered as a securities broker-dealer with the National Association of
18 Securities Dealers.

19 5. Walter Scott is not currently registered as a securities broker-dealer with the state of Washington.

20 6. Arthur K. Ruiz (“Ruiz”) was employed by Walter Scott, from October 1997 through at least April
21 20, 1998.

22 7. Ruiz is not currently registered to sell commodity contracts or commodity options with the CFTC.

23 8. Ruiz is not currently registered as a commodity sales representative with the state of Washington,
24 has not previously been so registered and is not a person exempt from the prohibition of RCW 21.30.020.

1 9. Ruiz is not currently registered to sell securities with the National Association of Securities Dealers
2 and has not been so registered since August of 1997.

3 10. Ruiz is not currently registered to sell securities in the state of Washington and has never been so
4 registered.

5 NATURE OF RESPONDENTS CONDUCT

6 11. Walter Scott, through its salesperson Ruiz, used high-pressure sales tactics to defraud Washington
7 residents. These tactics consisted of intensive telephone campaigns and unsolicited telephone calls promising high
8 rates of return with minimal risk for investments in speculative foreign currency transactions traded on foreign
9 exchanges or through the interbank market.

10 12. During the months of October and November of 1997, Ruiz repeatedly contacted at least one
11 Washington resident promoting the trading of foreign currency contracts in a discretionary account. During these
12 phone calls Ruiz pressured the resident to make an investment with him, telling him that he would make 20 to 30%
13 returns. Ruiz represented himself to the resident as a very knowledgeable and successful foreign currency trader,
14 assuring the resident that the risk was minimal, since Ruiz would be managing the trades himself. Ruiz failed to
15 advise the resident that he was not registered to sell such investments.

16 13. On or about December 9, 1997 the resident capitulated to Ruiz's sales pitch and sent \$3,500 to Ruiz
17 to establish a discretionary commodity account, in which Ruiz would make spot currency trades for the resident.

18 14. Over the next four months Ruiz periodically called the resident, falsely reporting to the resident that
19 the resident's account had made two to three percent each month. Ruiz ended these phone calls with a request that
20 the resident send Ruiz more money to invest. In response to these phone calls the resident sent additional funds to
21 Ruiz, as follow: \$6,500 on or about February 19, 1998 and \$15,000 on or about April 9, 1998. Ruiz also told the
22 resident was told that it was Walter Scott's policy not to send monthly account statements.

23 15. On or about April 20, 1998, the resident received his first statement, for the period ending March 30,
24 1998. The statement revealed losses in the resident's account of over \$3,700. The resident called Ruiz for an
25 explanation and requested that his account be closed and the remaining funds be returned to him. Ruiz told the

1 resident that the balance in the account was approximately \$21,200. Four days later the resident received a check in
2 the amount of \$18,391.92, with no explanation for the \$2,800 differential.

3
4 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

5
6 **CONCLUSIONS OF LAW**

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8 16. The offer and/or sale of foreign currency contracts, as described above, constitutes the offer and/or sale
9 of a commodity contract or commodity option in the state of Washington as defined in RCW 21.30.080 and RCW
10 21.30.010.

11 17. The offer and/or sale of said commodity contracts or commodity options constitute a violation of the
12 prohibition under RCW 21.30.020 because the offer or sale was made by a person not exempt under RCW
13 21.30.030 and the transaction or contract was not exempt under RCW 21.30.040.

14 18. Respondents engaged in one or more fraudulent or deceptive practices in the commodities business, as
15 described above, by engaging in high pressure sales tactics in connection with speculative commodities contract or
16 commodities option offerings in violation of RCW 21.30.060(3).

17 19. Respondents engaged in one or more fraudulent or deceptive practices in the commodities business,
18 as described above, by making false reports and untrue statements of material fact regarding client accounts, in
19 violation of RCW 21.30.060(2).

20 Based on the foregoing, NOW, THEREFORE, IT IS HEREBY ORDERED that Walter Scott Lev &
21 Associates and Arthur K. Ruiz, their agents and employees permanently cease and desist from offering
22 and/or selling commodity contracts or commodity options in any manner in violation of RCW 21.30.020
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1 It is further ORDERED that, Respondents, their agents and employees permanently cease and desist
2 from offering and/or selling Commodity contracts or commodity options in any manner in violation of
3 RCW 21.30.060, the anti-fraud section of the Commodity Act.

4 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

5 DATED this _____ day of _____, 1999.

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8 _____
DEBORAH R. BORTNER
Securities Administrator

9 Approved by:

Presented by:

10
11 _____
Michael E. Stevenson
Chief of Enforcement

12 _____
Kristina L. Kneip
Securities Examiner