

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

COMMODITY FUTURES TRADING COMMISSION

Plaintiff,

v.

ROTHLIN AND WINDSOR CAPITAL  
MANAGEMENT, INC.

and

PETER SCOTT

Defendants.

Case No. AMD 01 CV 2320

(Proposed)  
) *Ex Parte* Statutory Restraining  
) Order Freezing Assets of  
) Defendants, Prohibiting  
) Defendants From Destroying or  
) Altering any Books, Records or  
) Other Documents and Barring  
) Defendants from Denying  
) Access to those Books, Records  
) and Documents to any  
) Representative of Plaintiff

Plaintiff, the Commodity Futures Trading Commission ("Commission"), has filed a complaint for permanent injunction and other relief, and moved, pursuant to Section 6c of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. § 13a-1 (1994), for an *Ex Parte* Statutory Restraining Order freezing the assets of the Defendants and prohibiting Defendants from destroying or altering any books, records or other documents and barring the Defendants from denying access to those books, records and documents to any representative of the Commission ("Order"). The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission's motion.

As it appears to the Court the Court has jurisdiction over the subject matter of this case; that Section 6c of the Act, 7 U.S.C. § 13a-1, authorizes such relief; that there is good cause to believe that Defendants Rothlin and Windsor Capital Management, Inc. ("R&W Capital") and Peter Scott ("Scott") have engaged in, are engaging in or are about to engage in violations of the

Act; and that this is a proper case for granting an *Ex Parte* Statutory Restraining Order to preserve the status quo, protect public customers from loss and damage, and enable the Commission to fulfill its statutory duties, the Court orders as follows:

### DEFINITIONS

For the purposes of this Order, the following definitions apply:

1. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes, but is not limited to, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

2. "Defendants" mean Rothlin and Windsor Capital Management, Inc., a company operating out of Forest Hills, Maryland, and Peter Scott, an individual residing in Forest Hills, Maryland.

### RELIEF GRANTED

#### I.

#### *Asset Freeze*

**IT IS HEREBY ORDERED** that the Defendants, except as otherwise ordered by this Court, are restrained and enjoined from directly or indirectly:

- A. transferring, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing of any assets, including assets held in individual, corporate or partnership accounts in which Defendants have an interest, including without

limitation Rothlin and Windsor Future Fund, and Bay Harbor Trading Company (the "Affiliated Entities"), and assets held outside the United States, or as otherwise ordered by the Court;

- B. opening or causing to be opened any safe deposit boxes titled in the name of, or subject to access by, the Defendants or any of the Affiliated Entities.

## II.

### *Maintenance of and Access to Business Records*

IT IS HEREBY ORDERED that the Defendants and all persons or entities who receive notice of this Order by personal service or otherwise, are restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or business or personal finances of Defendants, their agents, attorneys, partners, servants, representatives, employees, attorneys, any person(s) acting or purporting to act for or on their behalf, and corporate and partnership entities in which Defendants have an interest, including the Affiliated Entities.

## III.

### *Inspection and Copying of Books and Records*

IT IS FURTHER ORDERED that representatives of the Commission be immediately allowed to inspect the books, records, and other documents of the Defendants, their agents, attorneys, partners, servants, representatives, employees, any person(s) acting or purporting to act for or on their behalf, and corporate and partnership entities in which Defendants have an interest, including the Affiliated Entities, including, but not limited to, electronically stored data, tape recordings, and computer discs, wherever they may be situated and whether they are in the person of the Defendants or others, and to copy said documents, data and records, either on or off the premises where they may be situated.

## IV.

*Directives to Financial Institutions and Others*

IT IS FURTHER ORDERED, pending further Order of this Court, that any financial or brokerage institution, business entity, or person, including without limitation the Affiliated Entities, that holds, controls, or maintains custody of any account or asset, or at any time since June 1, 1998, has held, controlled, or maintained custody of any account or asset of the Defendants or any of the Affiliated Entities shall:

- A. Prohibit Defendants and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;
- B. Deny Defendants and all other persons access to any safe deposit box that is:
  1. titled in the name of the Defendants or any of the Affiliated Entities; or
  2. otherwise subject to access by the Defendants.
- C. Provide counsel for the Commission, within five (5) business days of receiving a copy of this Order, a statement setting forth:
  1. the identification number of each and every account or asset titled in the name, individually or jointly, of, or held on behalf of, or for the benefit of, the Defendants or any of the Affiliated Entities;
  2. the balance of each such account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the

- account, and the name of the person or entity to whom such account or other asset was remitted; and
3. the identification of any safe deposit box that is either titled in the name, individually or jointly, of the Defendants or any of the Affiliated Entities or is otherwise subject to access by the Defendants;
- D. Upon request by the Commission, promptly provide the Commission with copies of all records or other documentation pertaining to such account or asset, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

V.

*Service of Order*

**IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including facsimile transmission, upon any entity or person that may have possession, custody, or control of any documents or assets of the Defendants or that may be subject to any provision of this Order, and, additionally, that Richard Wagner, Leanna L. Saler, Jason Gizzarelli and Kay Majors-Guy are specially appointed by the Court to effect service. Service of the summons, Complaint or other process may be effected by U.S. Marshal or deputy U.S. Marshal, or in accordance with Fed. R. Civ. P. 4.

## VI.

*Order to Show Cause*

IT IS FURTHER ORDERED that the Defendants shall appear before this Court on the 10<sup>th</sup> day of August, 2001, at 9 AM .m., before the Honorable Andrew M. Davis at the United States Courthouse for the District of Maryland at Suite 4415, 101 West Lombard Street Baltimore, Maryland, to show cause why this Court should not enter a Preliminary Injunction enjoining Defendants from further violations of the Act, and ordering any additional relief this Court deems appropriate. Should any party wish to file a memorandum of law or other papers concerning the issuance of a Preliminary Injunction against the Defendants, such materials shall be filed, served and received by all parties at least two (2) days before the hearing ordered above.

## VII.

*Force and Effect*

IT IS FURTHER ORDERED that this Order shall remain in full force and effect until further order of this Court, and that this Court retains jurisdiction of this matter for all purposes.

SO ORDERED, at Baltimore, Maryland on this 6<sup>TH</sup> day of August, 2001, at 4:00 pm .m.

Brian E. Legg  
UNITED STATES DISTRICT JUDGE  
CHAMBERS JUDGE