

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

U.S. Commodity Futures Trading Commission,

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CIVIL DIVISION
BROOKLYN OFFICE

Plaintiff,

GLASSER

v.

A.S. Templeton Group, Inc.,
Michael Vitebsky, and
Boris Shuster, a/k/a Robert Shuster

Defendants, and

Chariot Consulting, Inc.,
Shuster, Shuster & Shuster, Ltd., and
Winn Industries Division of Ontario Limited,

Relief Defendants:

) *Ex Parte* Statutory Restraining Order
) Freezing Defendants' and Relief
) Defendants' Assets, Prohibiting
) Defendants from Destroying or Altering
) any Books, Records, or other Documents,
) and Barring Defendants from Denying
) Access to any Representative of Plaintiff,
) Appointing a Temporary Receiver, and
) Expedited Asset Discovery, and an Order
) to Show Cause why a Preliminary
) Injunction and an Order Directing
) Defendants and Relief Defendants to
) Repatriate Assets Should Not be Entered

Plaintiff U.S. Commodity Futures Trading Commission (the "Commission"), has filed a complaint for permanent injunction and other relief, and moved *ex parte*, pursuant to Section 6c of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §13a-1 (2001), for a statutory restraining order freezing assets, ordering foreign-held assets and documents to be transferred to the United States, appointing a temporary receiver, prohibiting the destruction of books, records, or other documents, granting leave to the parties and the temporary receiver to engage in an expedited discovery process for the purpose of discovering the nature, location, status, and extent of assets and ordering A.S. Templeton Group, Inc. ("AST"), Michael Vitebsky ("Vitebsky"), and Boris Shuster a/k/a Robert Shuster ("Shuster") (collectively, the "Defendants") and Chariot Consulting, Inc. ("Chariot"), Shuster, Shuster & Shuster, Ltd. ("SSS"), and the Winn Industries

Division of Ontario, Limited ("Winn/Ontario") (collectively, the "Relief Defendants") to show cause why a permanent receiver should not be appointed and why a preliminary injunction should not be issued. The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission's application and now, being fully advised in the premises, finds that:

- (1) This Court has jurisdiction over the subject matter of this case, and Section 6c of the Act, 7 U.S.C. §13a-1 (2001), authorizes *ex parte* relief;
- (2) There is good cause to believe that Defendants have engaged in, are engaging in, or are about to engage in fraud in violation of 7 U.S.C. §§ 6(a) and 6b(a)(2) (2001) and 17 C.F.R. § 1.1(b) (2002);
- (3) A substantial amount of the funds that AST received from customers was transferred to Relief Defendants;
- (4) From at least December 2000 to at least March 2002, Defendants fraudulently marketed foreign currency futures contracts to individuals nationwide;
- (5) Absent the entry of this statutory restraining order, Defendants and Relief Defendants are likely to dissipate or transfer assets and destroy business records;
and
- (6) This is a proper case for granting a statutory restraining order *ex parte* to preserve the status quo, protect public customers from loss and damage, and enable the Commission to fulfill its statutory duties, therefore the Court orders as follows:

DEFINITIONS

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

1. "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including but not limited to chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, receivables, contracts, insurance policies, and all cash, wherever located, whether in the United States or abroad.

2. 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 reasonable usable form. A draft or non-identical copy is a separate document within the meaning of the term.

RELIEF GRANTED

Asset Freeze

I.

IT IS HEREBY ORDERED that 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, wherever located, including assets held outside the United States, except as provided in Paragraphs III and VI of this Order, or as otherwise ordered by the Court; or
- B. Opening or causing to be opened any safe deposit boxes titled in the name or subject to access by any of the Defendants.

- C. Notwithstanding the provisions of this paragraph, Defendants and Relief Defendants shall transfer possession of all assets to the Receiver, pursuant to Paragraph VI of this Order.

IT IS FURTHER ORDERED that Chariot, except as otherwise ordered by this Court, is 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 up to \$2,350,000, wherever located, including assets held outside the United States, except as provided in Paragraphs III and VI of this Order, or as otherwise ordered by the Court; or
- B. Opening or causing to be opened any safe deposit boxes titled in the name or subject to access by any of the Defendants.
- C. Notwithstanding the provisions of this paragraph, Chariot shall transfer possession of all assets up to \$2,350,000 to the Receiver, pursuant to Paragraph VI of this Order.

IT IS FURTHER ORDERED that SSS, except as otherwise ordered by this Court, is 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 up to \$1,062,593, wherever located, including assets held outside the United States, except as provided in Paragraphs III and VI of this Order, or as otherwise ordered by the Court; or

- B. Opening or causing to be opened any safe deposit boxes titled in the name or subject to access by any of the Defendants.
- C. Notwithstanding the provisions of this paragraph, SSS shall transfer possession of all assets up to \$1,062,593 to the Receiver, pursuant to Paragraph VI of this Order.

IT IS FURTHER ORDERED that Winn/Ontario, except as otherwise ordered by this Court, is 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 up to \$419,332, wherever located, including assets held outside the United States, except as provided in Paragraphs III and VI of this Order, or as otherwise ordered by the Court; or
- B. Opening or causing to be opened any safe deposit boxes titled in the name or subject to access by any of the Defendants.
- C. Notwithstanding the provisions of this paragraph, Winn/Ontario shall transfer possession of all assets up to \$419,332 to the Receiver, pursuant to Paragraph VI of this Order.

Identification and Preservation of Assets

II.

IT IS FURTHER ORDERED, pending further Order of this Court that any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset titled in the name of, held for the benefit of, or otherwise under

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the control of any Defendant, or has held, controlled, or maintained custody of any such account or asset of any Defendant at any time since December 21, 2000 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, or, as to receivership assets, as directed by the Receiver, as identified in Paragraph IV of this Order, appointed herein;
- B. Deny Defendants and all other persons access to any safe deposit box that is: (1) titled in the name of any Defendant either individually or jointly; or (2) otherwise subject to access by any Defendant. Notwithstanding this Paragraph the Receiver appointed herein shall be provided with access to any safe deposit box titled in the name of, or subject to access by Defendants;
- C. Provide the Receiver and 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 such account or asset titled in the name, individually or jointly, of any of the Defendants or held on behalf of, or for the benefit of, any of the Defendants, or under the control of any of the Defendants;
 - (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, 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 any Defendant, or is otherwise subject to access by any Defendant;
- D. Upon request by the Receiver or the Commission, promptly provide the Receiver and 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; and
- E. Cooperate with all reasonable requests of the Receiver or the Commission relating to implementation of this Order, including transferring funds at the Receiver's direction and producing records related to Defendants' accounts.

IT IS FURTHER ORDERED, pending further Order of this Court that any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset up to \$2,350,000 titled in the name of, held for the benefit of, or otherwise under the control of Chariot, or has held, controlled, or maintained custody of any such account or asset up to \$2,350,000 of Chariot at any time since December 21, 2000 shall:

- A. Prohibit Chariot and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset up to \$2,350,000, except as directed by

further order of the Court, or, as to receivership assets, as directed by the Receiver, as identified in Paragraph IV of this Order, appointed herein;

- B. Deny Chariot and all other persons access to assets up to \$2,350,000 in any safe deposit box that is: (1) titled in the name of Chariot either individually or jointly, or (2) otherwise subject to access by Chariot. Notwithstanding this Paragraph, the Receiver appointed herein shall be provided with access to any safe deposit box titled in the name of, or subject to access by Chariot;
- C. Provide the Receiver and 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 such account or asset titled in the name, individually or jointly, of Chariot, or held on behalf of, or for the benefit of, Chariot, or under the control of Chariot;
 - (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, 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 Chariot, or is otherwise subject to access by Chariot;
- D. Upon request by the Receiver or the Commission, promptly provide the Receiver and 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; and

- E. Cooperate with all reasonable requests of the Receiver or the Commission relating to implementation of this Order, including transferring funds at the Receiver's direction and producing records related to Chariot's accounts.

IT IS FURTHER ORDERED, pending further Order of this Court that any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset up to \$1,062,593 titled in the name of, held for the benefit of, or otherwise under the control of SSS, or has held, controlled, or maintained custody of any such account or asset up to \$1,062,593 of SSS at any time since December 21, 2000 shall:

- A. Prohibit SSS and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset up to \$1,062,593, except as directed by further order of the Court, or, as to receivership assets, as directed by the Receiver, as identified in Paragraph IV of this Order, appointed herein;
- B. Deny SSS and all other persons access to assets up to \$1,062,593 in any safe deposit box that is: (1) titled in the name of SSS either individually or jointly; or (2) otherwise subject to access by SSS. Notwithstanding this Paragraph, the Receiver appointed herein shall be provided with access to any safe deposit box titled in the name of, or subject to access by SSS;

- C. Provide the Receiver and 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 such account or asset titled in the name, individually or jointly, of SSS, or held on behalf of, or for the benefit of SSS, or under the control of SSS;
 - (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, 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 SSS, or is otherwise subject to access by SSS;
- D. Upon request by the Receiver or the Commission, promptly provide the Receiver and 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; and
- E. Cooperate with all reasonable requests of the Receiver or the Commission relating to implementation of this Order, including transferring funds at the Receiver's direction and producing records related to SSS's accounts.

IT IS FURTHER ORDERED, pending further Order of this Court that any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset up to \$419,332 titled in the name of, held for the benefit of, or otherwise under the control of Winn/Ontario, or has held, controlled, or maintained custody of any such account or asset up to \$419,332 of Winn/Ontario at any time since December 21, 2000 shall:

- A. Prohibit Winn/Ontario and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset up to \$419,332, except as directed by further order of the Court, or, as to receivership assets, as directed by the Receiver, as identified in Paragraph IV of this Order, appointed herein;
- B. Deny Winn/Ontario and all other persons access to assets up to \$419,332 in any safe deposit box that is: (1) titled in the name of Winn/Ontario either individually or jointly; or (2) otherwise subject to access by Winn/Ontario. Notwithstanding this Paragraph, the Receiver appointed herein shall be provided with access to any safe deposit box titled in the name of, or subject to access by Winn/Ontario;
- C. Provide the Receiver and 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 such account or asset titled in the name, individually or jointly, of Winn/Ontario, or held on behalf of, or for the benefit of, Winn/Ontario, or under the control of Winn/Ontario;

- (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, 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 Winn/Ontario, or is otherwise subject to access by Winn/Ontario;
- D. Upon request by the Receiver or the Commission, promptly provide the Receiver and 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; and
- E. Cooperate with all reasonable requests of the Receiver or the Commission relating to implementation of this Order, including transferring funds at the Receiver's direction and producing records related to Winn/Ontario's accounts.

Accounting of Assets

III.

IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, each Defendant shall:

- A. Provide the Commission and the Receiver with a full accounting of all funds, documents, and assets both within and outside the United States which are (1) titled in the name individually or jointly of such Defendant; or (2) held by person or entity, for the benefit of any Defendant; or (3) under such Defendant's direct or indirect control, whether jointly or singly;
- B. Provide the Commission access to all records of accounts or assets of Defendants held by financial institutions located both within and outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order.

IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, Chariot shall:

- A. Provide the Commission and the Receiver with a full accounting of all funds, documents, and assets up to \$2,350,000 both within and outside the United States which are (1) titled in the name individually or jointly of Chariot; or (2) held by person or entity, for the benefit of Chariot; or (3) under Chariot's direct or indirect control, whether jointly or singly;
- B. Provide the Commission access to all records of accounts or assets up to \$2,350,000 of Chariot held by financial institutions located both within and outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order.

IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, SSS shall:

- A. Provide the Commission and the Receiver with a full accounting of all funds, documents, and assets up to \$1,062,593 both within and outside the United States which are (1) titled in the name individually or jointly of SSS; or (2) held by person or entity, for the benefit of SSS; or (3) under SSS's direct or indirect control, whether jointly or singly;
- B. Provide the Commission access to all records of accounts or assets of SSS up to \$1,062,593 held by financial institutions located both within and outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order.

IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, Winn/Ontario shall:

- A. Provide the Commission and the Receiver with a full accounting of all funds, documents, and assets up to \$419,332 both within and outside the United States which are (1) titled in the name individually or jointly of Winn/Ontario; or (2) held by person or entity, for the benefit of Winn/Ontario; or (3) under Winn/Ontario's direct or indirect control, whether jointly or singly;
- B. Provide the Commission access to all records of accounts or assets of Winn/Ontario up to \$419,332 held by financial institutions located both within and outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order.

Temporary Receiver

IV.

IT IS FURTHER ORDERED that JAMES B. ZANE appointed temporary Receiver ("Receiver") for AST, Vitebsky, Shuster, Chariot, SSS, and Winn/Ontario, with the full powers of an equity receiver. The Receiver shall be the agent of this Court in acting as Receiver under this Order.

Duties of Receiver

V.

IT IS FURTHER ORDERED that the Receiver is directed and authorized to accomplish the following:

- A. Take exclusive custody, control, and possession of all the funds, property, mail and other assets of, in the possession of, or under the control of the Defendants, wherever situated.
- B. Take exclusive custody, control, and possession of all the funds, property, mail and other assets up to \$2,350,000 of, in the possession of, or under the control of Chariot, wherever situated.
- C. Take exclusive custody, control, and possession of all the funds, property, mail and other assets up to \$1,062,593 of SSS, in the possession of, or under the control of SSS, wherever situated.
- D. Take exclusive custody, control, and possession of all the funds, property, mail and other assets up to \$419,332 of, in the possession of, or under the control of Winn/Ontario, wherever situated.

- E. The Receiver shall have full power to sue for, collect, receive and take possession of all goods, chattels, rights, credits, moneys, effects, land, leases, books, records, work papers, and records of accounts, including documents related to customers or clients whose interest are now held by or under the direction possession, custody or control of the Defendants and Relief Defendants;
- F. Preserve, hold and manage assets of the Defendants and Relief Defendants and perform all acts necessary to preserve the value of those assets, in order to prevent any loss, damage or injury to customers or clients;
- G. Prevent the withdrawal or misapplication of funds entrusted to the Defendants and Relief Defendants and otherwise protect the interest of customers or clients;
- H. Collect all money owed to the Defendants and Relief Defendants;
- I. Initiate, defend, compromise, adjust, intervene in, dispose of, or become a party to any actions or proceedings in state, federal, or foreign court necessary to preserve or increase the assets of the receivership or to carry out his or her duties pursuant to this Order;
- J. Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;
- K. Issue subpoenas to obtain documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the receivership estate;
- L. Open one or more bank accounts as designated depositories for funds of the Defendants and Relief Defendants. The Receiver shall deposit all funds of the

Defendants and the Relief Defendants in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts; and

- I. Make payments and disbursements from the receivership estate necessary or advisable for carrying out the directions of or exercising the authority granted by this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Defendants or Relief Defendants prior to the date of entry of this Order, except from payments that the Receiver deems necessary or advisable to secure assets of the Defendants and the Relief Defendants.

Delivery of Assets to Receiver

VI.

IT IS FURTHER ORDERED that, immediately upon service of this Order upon them, Defendants, Relief Defendants, and any other person or entity served with a copy of this Order, shall immediately or within such time as permitted by the Receiver in writing, deliver over to the Receiver:

- A. Possession and custody of all funds, assets, property, and all other assets, owed beneficially or otherwise, wherever situated, of the Defendants;
- B. Possession and custody of all funds, assets, property, and all other assets up to \$2,350,000, owed beneficially or otherwise, wherever situated, of Chariot;
- C. Possession and custody of all funds, assets, property, and all other assets up to \$1,062,593, owed beneficially or otherwise, wherever situated, of SSS;

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- D. Possession and custody of all funds, assets, property, and all other assets up to \$419,332, owed beneficially or otherwise, wherever situated, of Winn/Ontario;
 - E. Possession and custody of documents of the Defendants, including but not limited to all books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, cancelled checks, records of wire transfers, and check registers), clients lists, title documents and other papers;
 - F. Possession and custody of all precious metals, other commodities, funds, and other assets being held by or on behalf of the Defendants, Chariot valued up to \$2,350,000, SSS valued up to \$1,062,593, or Winn/Ontario valued up to \$419,332;
 - D. All keys, computer passwords, entry codes, and combinations to locks necessary to gain or to secure access to any of the assets or documents of the Defendants or Relief Defendants, including but not limited to, access to the Defendants' and Relief Defendants' business premises, means of communication, accounts, computer systems, or other property; and
 - E. Information identifying the accounts, employees, properties, or other assets or obligations of the Defendants and Relief Defendants.

Cooperation with Receiver

VII.

IT IS FURTHER ORDERED that Defendants, Relief Defendants, and all other persons or entities served with a copy of this order shall cooperate fully with and assist the

Receiver. This cooperation and assistance shall include, but not be limited to, providing any information to the Receiver that the Receiver deems necessary to exercising the authority granted by this Court; providing any password required to access any computer or electronic files in any medium; and discharging the responsibilities of the Receiver under this Order, and advising all persons who owe money to the Defendants or the Relief Defendants that all debts should be paid directly to the Receiver.

Legal Action involving Receivership

VIII.

IT IS FURTHER ORDERED that except by leave of the Court, during the pendency of the receivership ordered herein, Defendants, Relief Defendants, and all other persons and entities be and hereby are stayed from taking any action to establish or enforce any claim, right or interest for, against, on behalf of, in, or in the name of the Receiver, receivership assets, or the Receiver's duly authorized agents acting in their capacities as such, including but not limited to, the following actions:

- A Commencing, prosecuting, litigating or enforcing any suit, except that actions may be filed to toll any applicable statute of limitations;
- B Accelerating the due date of any obligation or claimed obligation, enforcing any lien upon, or taking or attempting to take possession of, or retaining possession of, property of the receivership or any property claimed by the receivership, or attempting to foreclose, forfeit, alter or terminate any of the Defendants' or Relief Defendants' interests in receivership property, whether such acts are part of a judicial proceeding or otherwise;

- C. Using self-help or executing or issuing, or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wherever located, owned by or in the possession of the receivership, or the Receiver, or any agent of the Receiver; and
- D. Doing any act or thing to interfere with the Receiver taking control, possession or management of the property subject to the receivership, or to in any way interfere with the Receiver or the duties of the Receiver; or to interfere with the exclusive jurisdiction of this Court over the property and assets of the Defendants or the Relief Defendants.
- E. This Section does not stay the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

Compensation of the Receiver

IX.

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the assets now held by the Defendants and the Relief Defendants. The Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than sixty (60) days after the entry date of this Order.

The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

Bond Posted by Receiver

X.

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 754 (2001), the Receiver shall file with the Clerk of the Court a bond in the amount of \$ 200,000 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs.

Maintenance of and Access to Business Records

XI.

IT IS HEREBY ORDERED that Defendants, Relief 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 finances of any Defendant.

Commission's Access to and Inspection of Documents

XII.

IT IS FURTHER ORDERED that representatives of the Commission be immediately allowed to inspect the books, records, and other documents of Defendants and their agents including, but not limited to, paper documents, electronically stored data, tape recordings, and computer discs, wherever they may be situated and whether they are in the possession of Defendants or others, and to copy said documents, data and records, either on or off the premises where they may be situated.

Service of Order

XIII.

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of any Defendant or Relief Defendant or that may be subject to any provision of this Order.

Expedited Discovery

XIV.

IT IS FURTHER ORDERED that the parties and the Receiver are granted leave, at any time after service of this Order, to take the deposition of and demand the production of documents from any person or entity for the purpose of discovering the nature, location, status, and extent of assets of Defendants or Relief Defendants, and the location of documents reflecting the business transactions of Defendants; forty-eight (48) hours notice shall be deemed sufficient for any such deposition and five (5) days notice shall be deemed sufficient for the production of any such documents.

Depositions

XV.

IT IS FURTHER ORDERED that the limitations and conditions set forth in Federal Rule of Civil Procedure 30(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Order. No depositions taken pursuant to paragraph XV shall count toward the ten-deposition limit set forth in Federal Rule of Civil Procedure 30(a)(2)(A).

Service on the Commission

XVI.

IT IS FURTHER ORDERED that Defendants and Relief Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Sheila L. Marhamati, Trial Attorney, Division of Enforcement, U.S. Commodity Futures Trading Commission, Eastern Regional Office, 140 Broadway, 19th Floor, New York, New York 10005.

Order to Show Cause

XVII.

IT IS FURTHER ORDERED that each Defendant and Relief Defendant shall appear before this Court on the 14th day of October, 2003, at 10:00 AM before the Honorable I. L. GLASSER CTR # 5 at the United States Courthouse for the Eastern District of New York at 225 (ADONAR) PLAZA # 501, BROOKLYN, New York, to show cause why this Court should not enter a preliminary injunction:

- A. Enjoining Defendants from further violations of the Act;
- B. Continuing the freeze on the assets of Defendants and Relief Defendants;
- C. Ordering Defendants to transfer to the territory of the United States and deliver to the Receiver all funds, documents, and assets located in foreign countries which are (1) titled in the name individually or jointly of any Defendant; or (2) held by a

- person or entity for the benefit of any Defendant; or (3) under such Defendant's direct or indirect control, whether jointly or singly;
- D. Ordering Chariot to transfer to the territory of the United States and deliver to the Receiver all documents relating to Defendants and all funds and assets up to \$2,350,000 located in foreign countries which are (1) titled in the name individually or jointly of Chariot; or (2) held by a person or entity for the benefit of Chariot; or (3) under Chariot's direct or indirect control, whether jointly or singly;
- E. Ordering SSS to transfer to the territory of the United States and deliver to the Receiver all documents relating to Defendants and all funds and assets up to \$1,062,593 located in foreign countries which are (1) titled in the name individually or jointly of SSS; or (2) held by a person or entity for the benefit of SSS; or (3) under SSS's direct or indirect control, whether jointly or singly;
- F. Ordering Winn/Ontario to transfer to the territory of the United States and deliver to the Receiver all documents relating to Defendants and all funds and assets up to \$419,332 located in foreign countries which are (1) titled in the name individually or jointly of Winn/Ontario; or (2) held by a person or entity for the benefit of Winn/Ontario; or (3) under Winn/Ontario's direct or indirect control, whether jointly or singly;
- G. Making the Receiver's appointment permanent; and
- H. 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 Defendants or Relief Defendants, such

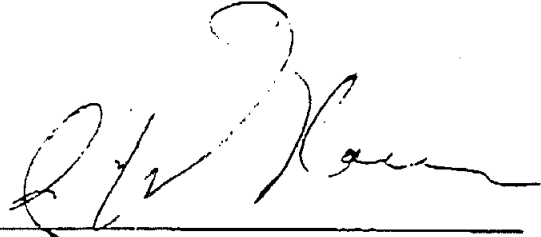
materials shall be filed, served and received by all parties at least two (2) days before the hearing date ordered above.

Force and Effect of Order

XVIII.

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 Brooklyn, New York on this 1st day of October, 2003, at 2:35 PM



UNITED STATES DISTRICT JUDGE

A TRUE COPY
ATTEST
DATED OCT 01 2003
ROBERT C. HEINEMANN
CLERK
BY [Signature]
DEPUTY CLERK

CONSENT TO RELEASE OF FINANCIAL RECORDS

I, _____, do hereby direct any bank or trust company at which I have a bank account of any kind upon which I am authorized to draw, and its officers, employees and agents, to disclose all information and deliver copies of all documents of every nature in your possession or control which relate to said bank accounts to any attorney of the U.S. Commodity Futures Trading Commission, and to give evidence relevant thereto, in the matter of U.S. Commodity Futures Trading Commission v. A.S. Templeton Group, Inc., Michael Vitebsky, Boris Shuster, a/k/a Robert Shuster, Chariot Consulting, Inc., Shuster, Shuster & Shuster, Ltd., and the Winn Industries Division of Ontario, Limited, now pending before the United States District Court for the Eastern District of New York, and this shall be irrevocable authority for so doing. This direction is intended to apply to the laws of countries other than the United States which restrict or prohibit the disclosure of bank information without the consent of the holder of the account, and shall be construed as consent with respect thereto, and the same apply to any of the bank accounts for which I may be a relevant principal.

Dated: _____, 2003

Signature

Respectfully submitted,

Sheila L. Marhamati

Sheila L. Marhamati [SM-8016]

Trial Attorney

Beth R. Morgenstern

Chief Trial Attorney [BM-3666]

Division of Enforcement

U.S. Commodity Futures Trading Commission

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