

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

MICHAEL ZELENER, an individual, a/k/a  
MIKHAIL ZELENER, a/k/a MICHAEL  
MARSHALL; AMGINE INC., a Nevada  
Corporation f/d/b/a BRITISH CAPITAL  
GROUP; MARKHAM & Co., a Nevada  
Corporation d/b/a BRITISH CAPITAL  
GROUP LTD.; and ALARONFX, an Illinois  
Corporation,

Defendants.

CIVIL ACTION NO:03 C 4346

Judge Kennelly

Magistrate Judge Keys

RESTRAINING ORDER

STATUTORY EX PARTE RESTRAINING  
ORDER

The Court having read the Complaint for Injunctive and Other Equitable Relief, the Plaintiffs Motion for a Statutory *Ex Parte* Restraining Order ("SRO"), the Brief in Support of Plaintiff's Motion for a SRO, the Declarations of Nicholas J. Calamus; Eleanor J. Fox; Martin P. Golden; Ronald B. Hobson; Robert Opp; Walter F. Price; Louis J. Renna; and Mary E. Spear and the exhibits and attachments thereto, and all other papers filed herein by the Plaintiff, Commodity Futures Trading Commission ("Commission"),

**THE COURT FINDS:**

1. The Court has jurisdiction over the subject matter.
2. Section 6c of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1 (2000), permits this Court to enter an *ex parte* statutory restraining order ("SRO").
3. It appears to the satisfaction of the Court that there is good cause to believe that defendants Michael Zelener, a/k/a Mikhail Zelener, a/k/a Michael Marshall ("Zelener"); Amgine Inc. ("Amgine") f/d/b/a British Capital Group; Markham & Co. ("Markham") d/b/a British Capital Group, Ltd. ("BCG") (collectively, the "BCG Defendants"); and AlaronFX ("AFX") (collectively "the Defendants"), have engaged, are engaging in and are about to engage in violations of Sections 4b(a)(2)(i) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) (2000).
4. It further appears to the satisfaction of the Court that this is a proper case for granting an *ex parte* restraining order to preserve the *status quo* and to protect public customers from further loss and damage.

**IT IS HEREBY ORDERED THAT:*****Asset Freeze as to BCG Defendants***

5. The BCG Defendants, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns or attorneys of the BCG Defendants and all persons insofar as they are acting in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, shall be prohibited from directly or indirectly:

(a) Withdrawing, transferring, removing, dissipating, concealing or disposing of funds, assets or other property, wherever situated, within or outside the United States, including but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account held by, under the control of, directly or indirectly, or in the name of or within the custody, control or

possession of the BCG Defendants, including funds or property of investors, wherever located, whether held in the name of Michael Zelener, Mikhail Zelener, Michael Marshall, Amgine, Inc., Markham & Co., British Capital Group or British Capital Group Ltd., or otherwise.

(b) The assets affected by this Section shall include both existing assets and assets acquired after the issuance of this Order.

6. IT IS FURTHER ORDERED that each firm, corporation or other person or entity with notice which holds, or which is a depository of, funds, securities, property, or other assets of or under the control of any of the BCG Defendants whether held in the name of any of the BCG Defendants or otherwise, including funds and property of investors, is prohibited from transferring, withdrawing, removing or disposing of any such funds, securities, property, or other assets until further order of the Court.

***BCG Defendants and AFX Must Maintain Records and Permit Inspection of Records***

7. IT IS FURTHER ORDERED that the BCG Defendants and AFX, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns or attorneys of the BCG Defendants and AFX, and all persons insofar as they are acting in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, shall be prohibited from directly or indirectly:

Destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the defendants, wherever located, including all such records concerning the defendants' business operations, until further order of the Court.

8. IT IS FURTHER ORDERED that representatives of the plaintiff Commission be allowed to immediately inspect the books, records and other electronically stored data, tape recordings, and other documents of all of Amgine, Markham, BCG and AFX, and their agents, including all such records of Amgine, Markham, BCG and AFX's business operations, wherever

they are situated and whether they are in the hands of BCG, Amgine, Markham or AFX or others and to copy said documents, data, and records either on or off the premises wherever they may be situated.

***Service of Order and other Pleadings***

9. IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmissions, electronic mail or data transfer, upon any financial institution or other 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.

10. IT IS FURTHER ORDERED that Mary Elizabeth Spear, an employee of the Commission who is hereby specially appointed to serve process, including the summons and complaint, and all other papers in this cause.

***Service on the Commission***

11. IT IS FURTHER ORDERED that the Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Ava M. Gould, Lead Trial Attorney or Camille Arnold, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

***Court Maintains Jurisdiction***

12.. IT IS FURTHER ORDERED that this *Ex Parte* Restraining Order shall remain in full force and effect until further Order of this Court, upon application, notice and an opportunity to be heard, and that this Court retains jurisdiction of this matter for all purposes.

***Further Court Hearing***

13. IT IS FURTHER ORDERED that this matter is set for a status hearing on JULY 8, 2003, at 9:30 a.m.

14. IT IS FURTHER ORDERED that plaintiff's Motion for a Preliminary Injunction is set for hearing on JULY 14, 2003, at 9:30 a.m.

SO ORDERED: 6-24-03

  
Hon. Matthew F. Kennelly  
United States District Judge

Time: 3:35 pm