

**FILED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF MICHIGAN**

**OCT 20 2003  
CLERK'S OFFICE  
U. S. DISTRICT COURT  
EASTERN MICHIGAN**

**COMMODITY FUTURES TRADING  
COMMISSION,**

**CIVIL ACTION NO.**

**03-74206**

**Plaintiff,**

**LAWRENCE P. ZATKOFF**

**v.**

**MARQUIS FINANCIAL MANAGEMENT  
SYSTEMS, INC.,  
THE MARQUIS GROUP, INC.,  
JOHN DANIEL LEE,  
DAVID PAUL KELLY II and  
JOEL SOFLA,**

**MAGISTRATE JUDGE WALLACE CAPEL, JR.**

**Defendants.**

**STATUTORY EX PARTE RESTRAINING ORDER**

The Court having read the Complaint for Injunctive and Other Equitable Relief and for Civil Monetary Penalties Under the Commodity Exchange Act, the Plaintiff's Motion for an *Ex Parte* Statutory Restraining Order ("SRO"), the Brief in Support of Plaintiff's Motions for an *Ex Parte* Statutory Restraining Order, Preliminary Injunction and Expedited-Discovery, the declarations of William W. Heitner, Jr., and all of the attachments thereto, the Certifications issued by Sandra A. Guard, a Deputy Record Custodian of the National Futures Association, the declarations of pool participants, namely Jerry Clendenen, Stephen A. Farnelli, Jr., Stephen A. Farnelli, Sr., Rick Lansberry and Joseph Miduski, and the transcript of investigative testimony given by defendant John Daniel Lee ("Lee") and all other papers filed herein by the Plaintiff, Commodity Futures Trading Commission ("Commission"), it appearing that the Court

has jurisdiction over the subject matter and that Section 6c of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1 (2001), permits this Court to grant a statutory restraining order, it further appearing to the satisfaction of the Court that there is good cause to believe that defendants Marquis Financial Management Systems, Inc. ("Marquis FMS"), The Marquis Group, Inc. ("Marquis Group"), Lee, David Paul Kelly II ("Kelly") and Joel Sofia ("Sofia") (collectively the "Defendants"), have engaged, are engaging in or are about to engage in violations of Sections 4b(a)(i) and (iii), 4b(a)(ii), 4c(b), 4k(2), 4m(1), 4n(4) and 4o(1) of the Commodity Exchange Act ("the Act"), 7 U.S.C. §§ 6b(a)(i) and (iii), 6b(a)(ii), 6k(2), 6(m)(1), 6n(4) and 6o(1) (2001), and Commission Regulations 4.21, 4.22 and 33.10 thereunder, 17 C.F.R. § 4.21, 4.22 and 33.10 (2002), and it further appearing to the satisfaction of the Court that this is a proper case for granting a statutory restraining order to preserve the *status quo* and to protect public customers from further loss and damage;

IT IS HEREBY ORDERED:

1. That the Defendants, and all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns or attorneys of the 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) Dissipating, withdrawing, transferring, removing, concealing or disposing of cash, cashier's checks, funds, assets or other property of, or within the custody, control or possession of defendants Marquis FMS, Marquis Group or John Daniel Lee, including funds or property of commodity pool participants, wherever located, whether held in the name of Marquis FMS, Marquis Group, John Daniel Lee, or any of their aliases, including but not limited to JDL & Associates, JDLA, Justice, Divinity & Liberty Association, Jhon Leigh, Elite Marketing Internationale, S.A., Elite

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Marketing International, Inc., EMI-North American Section, EMI-NAS, or EMI, or otherwise; and

- b) 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 Defendants, wherever located, including all such records concerning their business operations, until further order of the Court.

2. 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 defendants Marquis FMS, Marquis Group or John Daniel Lee, whether held in the name of Marquis FMS, Marquis Group or John Daniel Lee or any of their aliases, including but not limited to JDL & Associates, JDLA, Justice, Divinity & Liberty Association, Jhon Leigh, Elite Marketing Internationale, S.A., Elite Marketing International, Inc., EMI-North American Section, EMI-NAS, or EMI, or otherwise, including funds and property of commodity pool participants, is prohibited from transferring, withdrawing, removing or disposing of any such funds, securities, property, or other assets until further order of the Court.

3. IT IS FURTHER ORDERED that representatives of the plaintiff Commission be allowed to immediately inspect the books, records and other electronically stored data, tape recording, and other documents of Defendants and their agents, including all such records of Defendants' business operations, wherever they are situated and whether they are in the hands of Defendants, or others and to copy said documents, data, and records either on or off the premises wherever they may be situated.

~~4. IT IS FURTHER ORDERED that this Order may be served by facsimile~~

~~transmissions.~~ **LPZ**

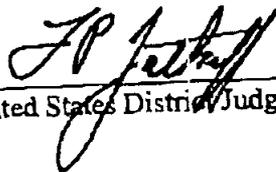
5. IT IS FURTHER ORDERED that this Statutory Restraining Order shall remain in full force and effect until further Order of this Court, ~~upon application, notice and an opportunity to be heard.~~

6. IT IS FURTHER ORDERED that plaintiff's Motion for a Preliminary Injunction is set for hearing on 10-30-, 2003, at 11:00am o'clock.

7. IT IS FURTHER ORDERED that William W. Heithcr, Jr., an employee of the Commission, is hereby specially appointed to serve process, including the summons and complaint, and all other papers in this cause.

Date: 20 OCT 2003

Time: 4:40 p.m.

  
United States District Judge

RECEIVED  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO, CALIFORNIA  
OCT 21 2003