

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

Civil Action No. _____

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

GIBRALTAR MONETARY CORP., INC.,
CHARLES I. FREMER,
JAYSON S. KLINE,
THOMAS J. CLANCY,
EDWARD T. JOHNSON, and
FOREX CAPITAL MARKETS, LLC.,

Defendants.

04-80132
CIV-PAINÉ
MAGISTRATE JUDGE
JOHNSON

FILED by _____ D.C.
FEB 10 2004
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - W.P.B.

~~Proposed~~ Statutory Restraining Order

The Court having read the Complaint for Injunctive and Other Equitable Relief and Civil Monetary Penalties Under the Commodity Exchange Act, the Plaintiff's Motion for a Statutory Restraining Order, the Memorandum in Support of Plaintiff's Motions for a Statutory Restraining Order and a Preliminary Injunction, the declarations of Mary Beth Spear, Harold Bailey, John Canty, Alexi Chemiakine, Helen Dixon, Richard Donnelly, Benjamin LeBouef and Ben Mahabir, the attachments thereto, 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(a) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1(a) (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 Gibraltar Monetary Corporation, Inc. ("Gibraltar"), Jayson Kline ("Kline"), Charles Fremer ("Fremer"), Thomas Clancy

("Clancy") and Edward Johnson ("Johnson") have engaged in, are engaging in and are about to engage in violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Commission Regulation 32.9(a) and (c), 17 C.F.R. §§ 32.9(a) and (c), and that Kline, Fremer and Clancy are liable for Gibraltar's violations as controlling persons, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b), and that Forex Capital Markets, LLC. ("FXCM") is liable as a principal for the acts of its agent Gibraltar, pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B), and Regulation 1.2, 17 C.F.R. § 1.2, 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 Gibraltar, Kline, Fremer, Clancy and Johnson, and all persons insofar as they are acting in the capacity of their agents, servants, employees, successors, assigns or attorneys, 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 dissipating, withdrawing, transferring, removing, concealing or disposing of, in any manner, any funds, assets or other property of, or within the custody, control or possession of the above-named defendants, including funds or property of investors, wherever located (including any funds or property located outside the United States), whether held in the name of the defendants or otherwise, and the assets affected by this paragraph shall include both existing assets and assets acquired after the effective date of this Order.

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 Gibraltar, Kline, Fremer, Clancy and Johnson, 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.

3. IT IS FURTHER ORDERED that Gibraltar, Kline, Fremer, Clancy, Johnson and FXCM, and all persons insofar as they are acting in the capacity of their agents, servants, employees, successors, assigns or attorneys, 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 their business operations, until further order of the Court.

4. IT IS FURTHER ORDERED that Gibraltar, Kline, Fremer, Clancy, Johnson and FXCM, and their agents, allow representatives of the Commission, when and as requested by those representatives, to immediately inspect the books, records and other electronically stored data, tape recordings, and other documents including all such records of their business operations, wherever they are situated and whether they are in the hands of the defendants or others, and to copy said documents, data, and records either on or off the premises wherever they may be situated.

5. 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 defendants or that may be subject to any provision of this Order. Service of this Order, the summons, the complaint and all other process and pleadings may be served by any employee of the Commission, or may be effected by any U.S. Marshal or deputy U.S. Marshal, or in accordance with Fed. R. Civ. P. 4.

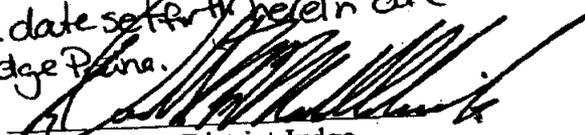
6. IT IS FURTHER ORDERED that this Statutory Restraining Order shall remain in full force and effect until further Order of this Court.

7. IT IS FURTHER ORDERED that plaintiff's Motion for a Preliminary Injunction is set for hearing on February 24th, 2009 at 10:30 a.m. o'clock at the U.S.

Courthouse located at 701 Clematis Street, WPB, FL before the

Honorable Judge Paine. The time and date set forth herein are subject to change upon notice by Judge Paine.

Date: 2/10/09


United States District Judge

