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FILED
 CLERK, U.S. DISTRICT COURT
 JUL 15 2005
 CENTRAL DISTRICT OF CALIFORNIA
 BY *[Signature]* DEPUTY

NOTE CHANGES MADE BY THE COURT.

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 BY

Attorneys for Plaintiff, United States Commodity Futures Trading Commission

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION**

U.S. COMMODITY FUTURES
 TRADING COMMISSION,

Plaintiff,

vs.

Brett E. Lovett, individually and d/b/a
 Northwest Asset Fund
 Defendants.

Case No. **CV05-5074 GHK** (MAN)

~~PROPOSED~~ **EX PARTE
 STATUTORY RESTRAINING
 ORDER
 AND ORDER TO SHOW CAUSE
 RE: PRELIMINARY
 INJUNCTION**

JUDGE:
 TIME:
 DATE:
 PLACE

DOCKETED ON CM
 JUL 15 2005
 BY *[Signature]* 026

CC: FISCAL

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1 [PROPOSED] EX PARTE STATUTORY RESTRAINING ORDER AND
2 ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

3 1. This matter came on the application of Plaintiff Commodity Futures
4 Trading Commission ("CFTC"), Jennifer S. Diamond and Kent Kawakami
5 appearing for Plaintiff CFTC, for an *Ex Parte* statutory restraining order against
6 Defendant Brett E. Lovett ("Lovett"), individually and d/b/a Northwest Asset Fund
7 and the Court having considered the complaint, memorandum of points and
8 authorities, declarations and other filings and evidence in support thereof, ^{7-Δ's opposition} makes
9 the following findings: SCANNED
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10 2. This Court has jurisdiction over the parties and over the subject matter
11 of this action, and venue lies properly in this Judicial District.

12 3. There is good cause to believe that the Defendant has engaged in and
13 is likely to engage in acts and practices that violate Sections 4b(a)(2)(i)-(iii) of the
14 Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §§ 6b(a)(2)(i)-(iii)
15 (2002), and that the CFTC has a reasonable probability of prevailing on the merits
16 of this action.

17 4. There is good cause to believe that immediate and irreparable damage
18 to the Court's ability to grant effective final relief for customers in the form of
19 monetary redress will occur from the sale, transfer, assignment, or other
20 disposition by the Defendant of his assets or destruction of records unless the
21 Defendants is immediately restrained and enjoined by Order of this Court and,
22 accordingly, there is good cause to issue this order.

23 5. Good cause exists for freezing the defendant's assets, and the issuance
24 of an order prohibiting the defendant from destroying records and denying agents
25 of the CFTC access to inspect and copy records.

26 6. Weighing the equities and considering the CFTC's reasonable
27 probability of success in its claims for relief, the issuance of an *ex parte* statutory
28

1 restraining order, pursuant to Section 6c(a) of the Act, 7 U.S.C. § 13a-1(a) (2002),
2 is in the public interest.

3
4 **ORDER**

5 **DEFINITIONS**

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

7 7. "Assets" means any legal or equitable interest in, right to, or claim to,
8 any real or personal property, including but not limited to chattels, goods,
9 instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or
10 other deliveries, inventory, checks, notes, accounts including bank accounts and
11 accounts at financial institutions, credits, receivables, lines of credit, contracts
12 including spot and futures contracts, insurance policies, and all cash, wherever
13 located.

14 8. The term "document" is synonymous in meaning and equal in scope to
15 the usage of the term in Federal Rule of Civil Procedure 34(a), and includes,
16 writings, drawings, graphs, charts, photographs, audio and video recordings,
17 computer records, and other data compilations from which information can be
18 obtained and translated, if necessary, through detection devices into reasonably
19 usable form. A draft or non-identical copy is a separate document within the
20 meaning of the term.

21 9. "Defendant" means Brett E. Lovett, and any person insofar as he or
22 she is acting in the capacity of an officer, agent, servant, employee or attorney of
23 Lovett and Northwest Asset Fund, and any person who receives actual notice of
24 this Order by personal service or otherwise, including Federal Express and
25 facsimile, insofar as he or she is acting in concert or participation with Lovett and
26 Northwest Asset Fund.
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1 A. Prohibit Defendant and any other person from withdrawing,
2 removing, assigning, transferring, pledging, encumbering, disbursing, dissipating,
3 converting, selling or otherwise disposing of any such asset except as directed by
4 further order of the Court;

5 B. Deny Defendant, and all other persons access to any safe deposit box
6 that is:

7 1. titled in the name of the Defendant, either individually or
8 jointly; or

9 2. otherwise subject to access by the Defendant;

10 C. Provide counsel for the CFTC within five (5) business days of
11 receiving a copy of this Order, a statement setting forth:

12 1. the identification number of each such account or asset titled in
13 the name, individually or jointly, of the Defendant, or held on behalf of, or for the
14 benefit, of the Defendant;

15 2. the balance of each such account, or a description of the nature
16 and value of such asset as of the close of business on the day on which this Order
17 is served, and, if the account or other asset has been closed or removed, the date
18 closed or removed, the total funds removed in order to close the account, and the
19 name of the person or entity to whom such account or other asset was remitted; and

20 3. the identification of any safe deposit box that is either titled in
21 the name, individually or jointly, of the Defendant, or is otherwise subject to
22 access by the Defendant;

23 D. Upon the request by the CFTC, promptly provide the CFTC with
24 copies of all records or other documentation pertaining to such account or asset,
25 including, but not limited to, originals or copies of account applications, account
26 statements, signature cards, checks, drafts, deposit tickets, transfers to and from the
27 accounts, all other debit and credit instruments or slips, currency transaction
28 reports, 1099 forms, and safe deposit box logs; and

1 C. Scripts, past and current promotional materials, and advertisements
2 relating to the services described in the Complaint;

3 D. All financial records relating to every acceptance of client funds
4 relating to the services alleged in the Complaint; and

5 E. All financial records pertaining to the transfer of funds to the
6 Defendant.

7 **IV. SERVICE OF ORDER**

8 **IT IS FURTHER ORDERED** that copies of this Order may be served by
9 any means, including facsimile transmission and Federal Express, upon any
10 financial institution or other entity or person that may have possession, custody, or
11 control of any documents or assets of the Defendant, or that may be subject to any
12 provision of this Order. Judith McCorkle, Cynthia Cannon, and Venice Bickham,
13 all employees of the CFTC, are hereby specially appointed to serve process,
14 including this Order and all other papers in this cause.

15
16 **V. BOND NOT REQUIRED OF PLAINTIFF**

17 **IT IS FURTHER ORDERED** that Plaintiff CFTC is an agency of the
18 United States of America and, accordingly, no bond need be posted by Plaintiff.

19
20 **VI. ORDER TO SHOW CAUSE**

21 **IT IS ORDERED** that the Defendant, shall show cause, if there be any, at
22 9:30 o'clock a.m. / ~~p.m.~~ on July 29, 2005 before the Honorable
23 George H. King; Courtroom 650, United States District Court,
24 Central District of California, located at 255 E. Temple St., Los
25 Angeles, California, why a Preliminary Injunction should not be granted to prohibit
26 further violations of the Act and the Regulations promulgated thereunder.

1 E. Cooperate with all reasonable requests of the CFTC relating to
2 implementation of this Order, including producing records related to Defendant's
3 accounts and Defendant's businesses.

4
5 **II. PROHIBITION OF DESTRUCTION OF BOOKS AND RECORDS**

6 **IT IS FURTHER ORDERED** that the Defendant and all persons or entities
7 who receive notice of this Order by personal service or otherwise, including
8 facsimile and Federal Express, are restrained and enjoined from directly or
9 indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in
10 any manner, directly or indirectly, any documents that relate to the business
11 practices or business or personal finances of the Defendant.

12
13 **III. ACCESS TO AND INSPECTION OF BOOKS AND RECORDS**

14 **IT IS FURTHER ORDERED** that representatives of the CFTC be allowed
15 immediately to inspect the books, records, and other documents of the Defendant
16 and his agents including, but not limited to, electronically stored data, tape
17 recordings, and computer discs, wherever they may be situated and whether they
18 are in the possession of the Defendant or others, and to copy said documents, data
19 and records, either on or off the premises where they may be situated including but
20 not limited to:

21 A. A list of all persons and entities who provided funds to be invested by
22 Defendant as described in the Complaint in this action from January 1, 2001 to the
23 present, including the name, address, telephone number, date(s) of transfer of
24 funds, amounts of funds, a description of the provided investment service, and any
25 correspondence relating to the acceptance of funds;

26 B. Copies of all commodity brokerage account documents reflecting all
27 deposits and trades made by Defendants from January 1, 2001 to the present;
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- 1 C. Scripts, past and current promotional materials, and advertisements
- 2 relating to the services described in the Complaint;
- 3 D. All financial records relating to every acceptance of client funds
- 4 relating to the services alleged in the Complaint; and
- 5 E. All financial records pertaining to the transfer of funds to the
- 6 Defendant.

IV. SERVICE OF ORDER

7
8 **IT IS FURTHER ORDERED** that copies of this Order may be served by
9 any means, including facsimile transmission and Federal Express, upon any
10 financial institution or other entity or person that may have possession, custody, or
11 control of any documents or assets of the Defendant, or that may be subject to any
12 provision of this Order. Judith McCorkle, Cynthia Cannon, and Venice Bickham,
13 all employees of the CFTC, are hereby specially appointed to serve process,
14 including this Order and all other papers in this cause.

15
16 **V. BOND NOT REQUIRED OF PLAINTIFF**

17 **IT IS FURTHER ORDERED** that Plaintiff CFTC is an agency of the
18 United States of America and, accordingly, no bond need be posted by Plaintiff.

19
20 **VI. ORDER TO SHOW CAUSE**

21 **IT IS ORDERED** that the Defendant, shall show cause, if there be any, at
22 9:30 o'clock a.m. / p.m. on July 29, 2005 before the Honorable
23 George H. King; Courtroom 650, United States District Court,
24 Central District of California, located at 255 E. Temple St., Los
25 Angeles, California, why a Preliminary Injunction should not be granted to prohibit
26 further violations of the Act and the Regulations promulgated thereunder.

1 **IT IS FURTHER ORDERED** that Service of a copy of this Order upon the
2 Defendant, in accordance with Rule 4 of the Federal Rules of Civil Procedure or in
3 any manner provided by law on or before 7/19/12:00 ^{noon} o'clock a.m./p.m. on the
4 19th day of July 2005, shall be deemed good and sufficient service and
5 notice thereof.

6
7 **VII.**

8 **IT IS FURTHER ORDERED** that any papers in opposition to Plaintiff's
9 Motion for a Preliminary Injunction shall be filed on or before

10 7/22 2005, and copies of such opposition delivered to Plaintiff on or
11 before 12 ^{noon} ~~am/pm~~ on 7/22 2005. Plaintiff shall reply to such opposition
12 by no later than 12 noon on July 26, 2005.

13 **IT IS FURTHER ORDERED** that this Order shall expire on 10:00
14 o'clock a.m./p.m. on the 29th day of July, 2005, unless for
15 good cause shown it is extended, or unless the Defendant consents that it may be
16 extended for a longer period.

17 **IT IS SO ORDERED.** *Plaintiff & Defendant SHALL provide courtesy copies of all
18 filings to chambers on the date that the time of filing.*

19 Signed at 10:30 o'clock am/pm on the 15th day of July, 2005

20 _____
21 UNITED STATES DISTRICT JUDGE
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23 Presented by:
24 Jennifer S. Diamond
25 Jennifer S. Diamond
26 Attorney for Plaintiff
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