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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Commodity Futures Trading Commission,

Plaintiff,

v.

Anthony Michael Frisone,  
Windsor Forex Trading Corp.,  
and COES FX Clearing, Inc.

Defendants.

2:05-CV-02547 (TCP) (MLO)

(PROPOSED) ORDER OF  
PRELIMINARY INJUNCTION AND  
OTHER EQUITABLE RELIEF  
AGAINST DEFENDANTS  
ANTHONY M. FRISONE AND  
WINDSOR FOREX TRADING  
CORP.

Plaintiff, the Commodity Futures Trading Commission ("Commission"), has filed a complaint for permanent injunction and other relief, and moved pursuant to Rule 65(a) of the Federal Rules of Civil Procedure for a Preliminary Injunction. The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission's motion. As it appears to the Court that the Court has jurisdiction over the subject matter of this case, that there is good cause to believe that defendants have engaged in, are engaging in or are about to engage in violations of the Act, and that this is a proper case for granting a preliminary injunction to preserve the status quo, protect public customers from further loss and damage, remove the danger of violation of the Act, and enable the Commission to fulfill its statutory duties, the Court orders as follows:

**DEFINITIONS**

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

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

2. "Defendants" means Windsor Forcx Trading Corp. ("WFTC") and Anthony Michael Frisone ("Frisone"), and any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee, or attorney of WFTC or Frisone, and any person who receives actual notice of this Order by personal service or otherwise insofar as he or she is acting in concert or participation with WFTC or Frisone.

## I.

### **Prohibition From Violations of the Act**

**IT IS HEREBY ORDERED** that the Defendants, along with any of their agents, servants, employees or assigns and persons in concert or participation with any of them who receives actual notice of this Order by personal service or otherwise, and all other persons or entities served with a copy of this Order, are restrained and enjoined, directly or indirectly, from violating Section 4b(a)(2) of the Act, 7 U.S.C. § 6b(a)(2) (2002), by cheating or defrauding investors or potential investors by making material misrepresentations, among other means; and employing devices, schemes or artifices to defraud investors or prospective investors, or engaging in transactions, practices or courses of business that operate as a fraud or deceit upon investors or prospective investors.

## II.

### **Asset Freeze As to Windsor**

**IT IS FURTHER ORDERED** that Defendant Windsor, except as otherwise ordered by this Court, is restrained and enjoined from directly or indirectly transferring, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing of any assets of Defendant Windsor, wherever located, including assets held in corporate accounts in which Defendant Windsor has an interest, except as otherwise ordered by the Court.

### **III.**

#### **Directives to Financial Institutions and Others as to Assets of Windsor**

**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, or at any time since December 2002, has held, controlled, or maintained custody of any account or asset of Defendant Windsor, shall:

- A. Prohibit Defendant Windsor and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset of Defendant Windsor except as directed by further order of the Court;
- B. Provide the 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 and every account or asset titled in the name, individually or jointly, of, or held on behalf of, or for the benefit of, Defendant Windsor;
  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, and 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 Defendant Windsor or is otherwise subject to access by Defendant Windsor;

- C. Upon request by the Commission, promptly provide the Commission with copies of all records or other documentation pertaining to such account or asset of Defendant Windsor, 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.

#### IV.

##### Asset Freeze As to Frisone

**IT IS FURTHER ORDERED** that Defendant Frisone, except as otherwise ordered by this Court, is restrained and enjoined from directly or indirectly transferring, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing of any assets, wherever located, including assets held in accounts in which Defendant Frisone has an interest, except as otherwise ordered by the Court. **This Order does not apply to assets within the jurisdiction of the Bankruptcy Court for the Southern District of Florida in the case captioned *In re Anthony Frisone and Heather Frisone*, Case No. 05-23032-BKC-RBR (S.D.Fla., filed May 18, 2005), but generally**

applies to assets acquired by Defendant Frisone after May 18, 2005, and to any other assets of Defendant Frisone that exist when the bankruptcy case is concluded. See 11 U.S.C. §541; *In re Wayne E. Bell, Jr.*, 225 F.3d 203, 215 (2d Cir. 2000). See also Lawrence P. King, *Collier on Bankruptcy*, ¶ 541.03, 541-10 (15th ed. 1999) (“...property acquired postpetition by the individual debtor is usually not property of the estate”) (citations omitted).

V.

Accounting

IT IS FURTHER ORDERED that within three (3) business days following the service of this Order, Defendants WFTC and Frisone shall:

- A. Provide the Commission with a full accounting of all funds and assets both within and outside of the United States which are held by Defendants WFTC or Frisone, on their behalf, or under their direct or indirect control, whether jointly or singly, or in which they have an interest, and a full accounting of all funds and assets that Defendants WFTC or Frisone received from its clients and the ultimate use or current location of those funds or assets;
- B. Provide the Commission with full access to and permit copying of all documents both within and outside of the United States that are held by them, on their behalf, or under their direct or indirect control, or relate to a corporate or partnership entity in which they have an interest;
- C. Provide the Commission access to all records of Defendants WFTC and Frisone held by financial institutions located both within and outside the territorial United States by signing a Consent to Release of Financial Records; and

- D. Provide the Commission with a complete customer list, including, without limitation, the names, addresses and telephone numbers of all persons who transferred funds to Defendants WFTC or Frisone from December 1, 2002 to the present.

## VI.

### **Maintenance of and Access to Business Records**

**IT IS HEREBY ORDERED** that the 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 or personal finances of any defendant.

## VII.

### **Inspection and Copying of Books and Records**

**IT IS FURTHER ORDERED** that representatives of the Commission be immediately allowed to inspect the books, records, and other documents of the 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 the Defendants or others, and to copy said documents, data and records, either on or off the premises where they may be situated.

## VIII.

### **Service of Order**

**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 the Defendants or that may be subject to any provision of this Order, and, additionally, that representatives of the Commission are specially appointed by the Court to effect service.

**IX.**

**Service on the Commission**

**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 Christine M. Ryall, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581.

**X.**

**Maintenance of Statutory Restraining Order**

**IT IS FURTHER ORDERED** that the Statutory Restraining Order issued by this Court on May 26, 2005, as modified herein, shall remain in full force and effect until further order of this Court.

**XI.**

**Force and Effect**

**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 Central Islip, New York on this 10<sup>th</sup> day of June, 2005.



THOMAS C. PLATT  
UNITED STATES DISTRICT JUDGE