

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

LOUIS J. GIDDENS, JR., ANTHONY
W. DUTTON, and MICHAEL
GOMEZ,

Defendants.

FILED UNDER SEAL

CIVIL ACTION NO.
1:11-cv-2038-WSD

STATUTORY RESTRAINING ORDER

This matter is before the Court on Plaintiff U.S. Commodity Futures Trading Commission’s (“Plaintiff”, “CFTC”, or “Commission”) *Motion for an Ex Parte Statutory Restraining Order to Freeze Assets of Defendant Gomez and to Require All Defendants to Provide an Accounting and to Preserve and Allow Copying of Books and Records* [6] (“Motion”) and *Memorandum of Law* [6-1] in support of the Motion (“Memorandum”). The Court has considered Plaintiff’s Motion and Memorandum, and the matters presented at the June 23, 2011, ex parte hearing on the Motion. Accordingly, the Court finds that:

1. This Court has jurisdiction over the parties and over the subject matter of this action pursuant to Section 6c of the Commodity Exchange Act (“Act”), 7 U.S.C. § 13a-1 (2006), and Section 2(c)(2) of the Act, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act (“CRA”) (hereinafter, “the Act as amended by the CRA”)), §§ 13101-13204, 122 Stat. 1651 (effective June 18, 2008), to be codified at 7 U.S.C. § 2(c)(2).

2. Venue lies properly within this District pursuant to Sections 6c(e) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 13a-1(e).

3. There is good cause to believe that defendants Louis J. Giddens, Jr. (“Giddens”), Anthony W. Dutton (“Dutton”) and Michael Gomez (“Gomez”) (collectively “Defendants”), have engaged, are engaging and/or are about to engage in acts and practices constituting violations of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 1 et seq., and Commission Regulations (“Regulations”), 17 C.F.R. §§ 1.1 et seq. (2011).

4. There is good cause to believe that immediate and irreparable damage to the Court’s ability to grant effective final relief for customers in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition

by Gomez of his assets unless Gomez is immediately restrained and enjoined by Order of the Court.

5. Good cause exists for the freezing of assets owned, controlled, managed, or held by, on behalf of, or for the benefit of Gomez in order to assure payment of restitution and disgorgement as authorized and for the benefit of customers.

6. Good cause exists for entry of an order prohibiting Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendants, including any successor thereof, from destroying records and/or denying CFTC representatives access to inspect and copy records to ensure that CFTC representatives have immediate and complete access to those books records.

7. Weighing the equities and considering the CFTC's likelihood of success in its claims for relief, the issuance of a statutory restraining order is in the public interest.

DEFINITIONS

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

8. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Fed. R. Civ. P. 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.

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

10. “Defendants” shall mean and refer to not only Giddens, Dutton and Gomez, but also to any d/b/a, successor, affiliate, subsidiary or other entity owned, controlled, managed or held by, on behalf of, or for the benefit of Giddens, Dutton and Gomez, including but not limited to, Currency Management Group L.L.C., Pinnacle Capital Partners L.L.C., Pinnacle Trade Group L.L.C., and Elyon L.L.C.

RELIEF GRANTED

I.

***ORDER AGAINST TRANSFER, DISSIPATION,
AND DISPOSAL OF ASSETS AGAINST DEFENDANT GOMEZ***

IT IS HEREBY ORDERED that:

11. Gomez, and his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with him, including any business or entity owned and/or operated by him, or any successor thereof, and persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, are immediately 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 of Gomez's Assets, wherever located, including Gomez's Assets held outside the United States, provided, however, that Gomez may request the Court to consider the release of assets to the extent reasonably necessary for living and other appropriate expenses. Gomez is further allowed to expend currently available funds in the amount of \$5,000, provided that within five (5) days of receiving this Order Gomez identifies for the Court the specific financial institution and account where the funds are located, so that financial institution may be partially relieved from this Order. The Assets affected

by this paragraph shall include both existing Assets and Assets acquired after the effective date of this Order.

12. Gomez is restrained and enjoined from directly or indirectly opening or causing to be opened any safe deposit boxes titled in the name of, or subject to, access by any of the Defendants.

13. All persons, including but not limited to Gomez and his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with him, including any business or entity owned or operated by him, or any successor thereof, and any persons who receive actual notice of this Order by personal service or otherwise, are enjoined from in any way transferring, assigning, transmitting or encumbering Gomez's Assets, in any way, engaging in any self-help, including set-offs, and from filing or prosecuting any actions or proceedings which involve or which affect Gomez's Assets, specifically including any proceeding initiated pursuant to the United States Bankruptcy Code, except with prior permission of this Court. Any authorized actions shall be filed in this Court.

14. Gomez shall transfer to the territory of the United States all funds, documents, and assets, including the Assets (other than real property), located

outside the United States that are held by Gomez, for his benefit, or which are under his direct or indirect control.

II.

***DIRECTIVES TO FINANCIAL INSTITUTIONS AND OTHERS IN
RELATION TO DEFENDANT GOMEZ***

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 owned, controlled, managed, or held by, on behalf of, or for the benefit of the Gomez, or has held, controlled, or maintained custody of any account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of Gomez at any time since December 1, 2006, shall:

15. Prohibit Gomez and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;

16. Deny Gomez and all other persons access to any safe deposit box that is: (a) titled in the name of Gomez either individually or jointly; or (b) otherwise subject to access by Gomez;

17. Upon reasonable request by the CFTC, meet with the CFTC to identify the accounts or assets in Gomez' name or in which he has a direct or beneficial interest and disclose: (a) 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 (b) the identification of any safe deposit box that is either titled in the name, individually or jointly, of Gomez to which Gomez otherwise has access.

III.

MAINTENANCE OF BUSINESS RECORDS AS TO ALL DEFENDANTS

IT IS FURTHER ORDERED that:

18. Defendants, and their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendants, including any successor thereof, and all other persons or entities who receive notice of this Order by personal service or otherwise, are immediately 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 Defendants and their subsidiaries or affiliates.

IV.

BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED that:

19. The CFTC is an agency of the United States of America and, accordingly, need not post a bond.

V.

ORDER TO SHOW CAUSE

IT IS FURTHER ORDERED that:

20. The CFTC and Defendants shall appear before this Court on the 11th day of July, 2011, at 10:00 a.m., at the United States Courthouse for the Northern District of Georgia, Atlanta Division, 75 Spring Street, S.W., Atlanta, Georgia, Courtroom 1705, for a hearing on the continuation of this Statutory Restraining Order. The Court will also at this hearing consider the schedule for a hearing on the CFTC's request for a Preliminary and Final Injunction.

VI.

SERVICE OF ORDER

IT IS FURTHER ORDERED that:

21. Copies of this Order, Summons and Complaint may be served by electronic mail or overnight delivery service, upon any entity or person that may have possession, custody, or control of any documents or the Assets that may be subject to any provision of this Order, and, additionally, that Kathleen M. Banar, James W. Deacon, Kim G. Bruno, Amanda L. Harding, Michael Loconte and Rick Glaser, or representatives thereof, and representative(s) of the U.S. Marshal Service are specially appointed by the Court to effect service.

VII.

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 this 24th day of June, 2011.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE