

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
BROOKLYN DIVISION

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

HASAAN R. STEEL,

Defendant.

CLERK OF COURT
EASTERN DISTRICT OF NEW YORK
FEB 8 - 2011
CLERK'S OFFICE
CASE NO. 11-cv-00001
CARAUBAS
GOLD, M.J.

**ORDER GRANTING PLAINTIFF'S *EX PARTE* MOTION FOR STATUTORY
RESTRAINING ORDER, EXPEDITED DISCOVERY,
PRELIMINARY INJUNCTION, AND OTHER EQUITABLE RELIEF**

This matter came before the Court for hearing on February 7, 2011 on plaintiff Commodity Futures Trading Commission's (CFTC) *ex parte* Motion for a Statutory Restraining Order, Expedited Discovery, Preliminary Injunction, and Other Equitable Relief (Motion). The Court, having considered the Motion, the memorandum in support thereof, and all other evidence presented by plaintiff, and having heard the arguments of plaintiff's counsel, 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, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (CRA)), §§ 13101-13204, 122 Stat. 1651 (effective June 18, 2008), to be codified at 7 U.S.C. § 1 *et seq.*, and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010 (Dodd-Frank Act)), §§701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.* (2010).

2. Venue lies properly within this District pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e).

3. There is good cause to believe that defendant Hasaan R. Steel (Steel) has engaged, is engaging, and is about to engage in acts and practices constituting violations of the Act, as amended, to be codified at 7 U.S.C. §§ 1, *et seq.*, and the Regulations, promulgated thereunder, 17 C.F.R. § 1, *et seq.* (2010).

4. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for pool participants in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by Steel of assets or records unless Steel 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 Steel and for entry of an order prohibiting Steel, his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Steel, 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 and records. Further, good cause exists for representatives of the U.S. Marshalls Service, or other federal, state, or local authorities to accompany representatives of the CFTC as they inspect and copy records.

6. Good cause exists for the CFTC to conduct expedited discovery in order to determine the full extent of Steel's alleged wrongdoing, locate Steel's other pool participants, identify pool participants' funds and all assets owned, controlled, managed or held by, on behalf of, or for the benefit of Steel (Steel's Assets), and clarify the source of various funds.

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.

I.

DEFINITIONS

For 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 Federal Rule of Civil Procedure (FRCP) 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" mean any legal or equitable interest in, right to, or claim to, any real or personal property, whether individually or jointly, direct or indirect control, and wherever located, including, but not limited to: chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts (including, but not limited to, bank accounts and accounts at financial institutions), credits, receivables, lines of credit, contracts including spot and futures or options contracts, insurance policies, and all cash, wherever located.

10. "Steel" shall mean and refer to not only Steel 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 Steel.

II.

ORDER AGAINST TRANSFER, DISSIPATION, AND DISPOSAL OF ASSETS

IT IS HEREBY ORDERED that:

11. Steel and his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with him, including any successor thereof, 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 Steel's Assets, wherever located, including Steel's Assets held outside the United States, except as provided in Section IV. of this Order, or as otherwise ordered by the Court. Steel's Assets affected by this paragraph shall include both existing Steel's Assets and Steel's Assets acquired after the effective date of this Order.

12. Steel 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 Steel.

III.

DIRECTIVES TO FINANCIAL INSTITUTIONS AND OTHERS

IT IS FURTHER ORDERED, pending further Order of this Court, that any financial or brokerage institution, business entity, or person that holds or has held, controls or has controlled, or maintains or has maintained custody of any of Steel's Assets at any time since August 1, 2007, shall:

13. Prohibit Steel and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of Steel's Assets, except as directed by further Order of the Court;

14. Deny Steel and all other persons access to any safe deposit box that is: (a) owned, controlled, managed, or held by, on behalf of, or for the benefit of Steel, either individually or jointly; or (b) otherwise subject to access by Steel;

15. Provide counsel for the CFTC, within five (5) business days of receiving a copy of this Order, a statement setting forth: (a) the identification number of each and every account or other asset owned, controlled, managed, or held by, on behalf of, or for the benefit of Steel, either individually or jointly; (b) 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 (c) the identification of any safe deposit box that is owned controlled, managed, or held by, on behalf of, or for the benefit of Steel, either individually or jointly, or is otherwise subject to access by Steel; and

16. Upon request by the CFTC, promptly provide the CFTC with copies of all records or other documentation pertaining to such account or asset, 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, Internal Revenue Service Form 1099s, and safe deposit box logs.

IV.

ACCOUNTING AND TRANSFER OF FUNDS AND DOCUMENTS

IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, Steel shall:

17. Provide the CFTC with a full accounting of all Steel's Assets, inside and outside of the United States, from August 1, 2007 to the date of this Order;

18. Transfer to a financial institution in the territory of the United States all of Steel's Assets (other than real property) located outside the United States and provide notice to the CFTC of such transfer; and

19. Provide the CFTC access to all records of Steel held by financial institutions located within or outside the territorial United States by signing a Consent to Release of Financial Records provided by the CFTC.

V.

MAINTENANCE OF BUSINESS RECORDS

IT IS FURTHER ORDERED that:

20. Steel and his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Steel, 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 Steel.

VI.

INSPECTION AND COPYING OF BOOKS AND RECORDS

IT IS FURTHER ORDERED that:

21. Representatives of the CFTC shall immediately be allowed to inspect the books, records, and other documents of Steel and his agents, including, but not limited to, electronically stored information, tape recordings, and computer discs, wherever they may be situated and whether they are in the person of Steel or others, and to copy said documents, information and records, either on or off Steel's premises. During the inspections and other activity described in this paragraph, representatives of the CFTC may be accompanied by representatives of the U.S. Marshalls Service, or other federal, state, or local authorities.

22. Steel, including any of his agents, servants, employees, or attorneys, shall, within 24 hours of the service of this Order, caused to be prepared and delivered to the CFTC, a detailed and complete schedule of all passwords and identification (ID) numbers for all websites, electronic mail accounts, and videophone accounts.

23. Steel, including any of his agents, servants, employees, or attorneys, shall, within 24 hours of the service of this Order, caused to be prepared and delivered to the CFTC, a detailed and complete schedule of all account numbers for all accounts at any bank, financial institution, or brokerage firm (including any introducing broker or futures commission merchant) operated by or to which Steel has access.

24. Steel, including any agents, servants, employees, or attorneys, shall, within 24 hours of the service of this Order, caused to be prepared and delivered to the CFTC, a detailed and complete schedule of all desktop computers, laptop computers, and/or personal digital assistants (PDA) owned and/or used by them and state whether such device is/was used by them

in connection with their business, stock and futures trading, or other investments. The schedules required by this section shall include at a minimum the make, model, and description of each computer and/or PDA, along with its location, the name of the person primarily assigned to use computer and/or PDA, and all passwords necessary to access and use the software contained on the computer and/or PDA. The CFTC shall be authorized to make or have made an electronic, digital, or hard copy of all of the data contained on the computer(s) and/or PDA(s).

25. Steel, his agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Steel, including any successor thereof, who receive actual notice of this Order by personal service or otherwise, including facsimile or other electronic transmission, shall cooperate fully with the CFTC to locate and provide to representatives of the CFTC all books and records of Steel, wherever such books and records may be situated.

VII.

ORDER GRANTING EXPEDITED DISCOVERY

IT IS HEREBY ORDERED that:

26. The parties may conduct expedited discovery, removing the prohibition upon discovery before the early meeting of counsel pursuant to Federal Rule of Civil Procedure 26(f), in accordance with Federal Rule of Civil Procedure 26(d), and that the parties may take depositions subject to two calendar days notice pursuant to Federal Rule of Civil Procedure 30(a) and 45—that notice may be given personally, by facsimile, or by electronic mail. Further, the deposition of defendant may last more than seven hours.

27. The CFTC may conduct expedited discovery to enable the CFTC to fulfill its statutory duties and protect pool participants from further loss or damage. This expedited discovery will allow the CFTC to determine the full extent of Steel's alleged wrongdoing

(including, but not limited to, the possible involvement of others), locate Steel's other pool participants, identify pool participants' funds, and other of Steel's Assets, and clarify the sources of various funds.

VIII.

BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED that:

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

IX.

ORDER TO SHOW CAUSE

IT IS FURTHER ORDERED that:

29. Steel shall appear before this Court on the 16th day of February, 2011, at 10:00 Am., before the Honorable Nicholas G. Garaufis at the United States Courthouse for the Eastern District of New York, 225 Calman Plaza East, Brooklyn NY Courtroom 4D Division to show cause, if there be any, why an

Order for Preliminary Injunction should not be granted to prohibit further violations of the Act and Regulations and why the other relief requested should not be granted pending trial on the merits of this action.

30. Should any party wish to file a memorandum of law or other papers in opposition to Plaintiff's Ex Parte Motion for a Statutory Restraining Order, Preliminary Injunction, and Other Equitable Relief, all papers shall be filed on or before February 14, 2011 and delivered to the CFTC's Kansas City, Missouri office no later than 12:00 o'clock Noon on that date, 2011. Any reply papers shall be filed with the Court and delivered to opposing counsel no later than 10:00 o'clock am. on

Service of this order and all supporting papers shall be made on defendant by electronic mail, overnight mail or personal service not later than Wednesday Feb. 9, 2011 at 5 pm. See p 31 below.

February 16, 2011. Service of all papers referenced in this paragraph shall be by electronic mail, overnight mail, facsimile, or personal service.

X.

SERVICE

IT IS FURTHER ORDERED that:

31. Copies of this Order may be served by any means, including electronic mail or facsimile transmission, upon any entity or person that may have possession, custody, or control of any documents or Steel's Assets that may be subject to any provision of this Order, and, additionally, that Christopher Reed, Charles Marvine, Rachel Hayes, Stephen Turley, Gina Weydert, Joyce Brandt, and Rick Glaser (among other representatives of the CFTC) are specially appointed by the Court to effect service. Further, service of the Summons, Complaint, or other process may be effected by any CFTC representative, any U.S. Marshal, or deputy U.S. Marshal, or in accordance with FRCP 4.

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.

IT IS SO ORDERED, at Brooklyn New York, on the 7 day of February, 2011, at

4:00 p.m.

for ordered.
^ s/NGG ^

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UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK