

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

UNITED STATES COMMODITY
FUTURES TRADING COMMISSION,

Plaintiff,

v.

JEREMIAH C. YANCY (a/k/a JEREMIAH
C. GLAUB), and LONGBRANCH GROUP
INTERNATIONAL LLC (f/k/a
LONGBRANCH LLC),

Defendants.

Civil Action No. 4:10CV2955

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

This matter came before the Court for hearing on 18 August, 2010, ^{at 5:05 p.m.}pn

Plaintiff's *Ex Parte* Emergency Motion for Statutory Restraining Order, Expedited Discovery, Preliminary Injunction, and Other Equitable Relief, and Memorandum in Support ("Motion") in the above-captioned proceeding. The Court, having considered the Motion, memorandum in support, 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 Sections 6c and 2(c)(2)(A) of the Commodity Exchange Act, 7 U.S.C. §§ 13a-1 and 2(c)(2)(B) and (C) (2006) (the "Act"), 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")), §§ 13101-13204, 122 Stat. 1651 (to be codified at 7 U.S.C. §§ 1 *et seq.* (effective June 18, 2008)).

2. Venue lies properly within this District pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006).

3. There is good cause to believe that Jeremiah C. Yancy (a/k/a Jeremiah C. Glaub) and Longbranch Group International LLC (f/k/a Longbranch LLC) (hereinafter, collectively "Defendants") have engaged, are engaging, and are about to engage in acts and practices constituting violations of the Act, 7 U.S.C. §§ 1, *et seq.*, 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.*

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 Defendants of assets or records unless Defendants are 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 Defendants.

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 the Defendants, including any successor thereof, from destroying records and/or denying agents of the Commission immediate access to inspect and copy records to ensure that Commission representatives have immediate and complete access to those books and records.

7. Good cause exists for the Plaintiff to conduct expedited discovery in order to determine the full extent of Defendants' alleged wrongdoing, locate Defendants' other customers, identify customers' funds and other of the assets of the Defendants, and clarify the source of various funds.

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

DEFINITIONS

For purposes of this Order, the following definitions apply:

9. 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.

10. "Assets" means 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 other financial institutions), credits, receivables, lines of credit, contracts (including futures or option contracts), insurance policies, and all cash.

11. "Defendants" shall mean and refer to not only Yancy and Longbranch, 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 Yancy and/or Longbranch.

RELIEF GRANTED

I. Order Against Transfer, Dissipation, and Disposal of Assets

IT IS HEREBY ORDERED that:

12. Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with them, including 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 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 the Assets, wherever located, including the Assets held outside the United States, except as provided in Section II of this Order, or as otherwise ordered by the Court. The assets affected by this paragraph shall include both existing assets and assets acquired after the effective date of this Order.

13. Defendants are 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 Defendants.

II. Accounting and Transfer of Funds and Documents

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

14. Provide the Commission with a full detailed accounting of all funds, documents, and assets, including the Assets, inside and outside of the United States that are held by each and every Defendant for their benefit, or under their direct or indirect control, whether jointly or singly;

15. 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

each and every Defendant for their benefit, or under their direct or indirect control, whether jointly or singly; and

16. Provide the Commission immediate access to all records of Defendants held by financial institutions located within or outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order.

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 the Assets at any time since July 1, 2008, shall:

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

18. Deny Defendants 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 Defendants, either individually or jointly, whether in the name, alias, or fictitious "doing business as" name; or (b) otherwise subject to access by Defendants;

19. Provide counsel for the Commission, 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 Defendants (as defined above), 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 Defendants, either individually or jointly, or is otherwise subject to access by Defendants; and

20. Upon request by the Commission promptly provide the Commission 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, Forms 1099, and safe deposit box logs.

IV. Maintenance of Business Records

IT IS FURTHER ORDERED that:

21. Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with the Defendants, including any successor thereof, and all other 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 Defendants.

V. Inspection and Copying of Books and Records**IT IS FURTHER ORDERED that:**

22. Representatives of the Commission shall be immediately allowed to inspect the books, records, and other documents of Defendants and their 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 Defendants or others, and to copy said documents, information and records, either on or off the premises; and

23. Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with the Defendants, including any successor thereof, who receive actual notice of this Order by personal service or otherwise, including facsimile transmission, shall cooperate fully with the Commission to locate and provide to representatives of the Commission all books and records of Defendants, wherever such books and records may be situated, and to locate and provide to representatives of the Commission information regarding the whereabouts of Defendants.

24. Defendants, and their subsidiaries, affiliates, and their officers, agents, servants, employees and attorneys, shall, within 24 hours of the issuance of this Order, cause to be prepared and delivered to the Commission, a detailed and complete schedule of all passwords and identification (ID) numbers for all websites, electronic mail accounts, videophone accounts, and all accounts at any bank, financial institution or brokerage firm (including any introducing broker or futures commission merchant) operated by or to which any of the Defendants has access.

25. Defendants, and their subsidiaries, affiliates, and their officers, agents, servants, employees and attorneys, shall, within 24 hours of the issuance of this Order, cause to be

prepared and delivered to the Commission, a detailed and complete schedule of all desk top computers, laptop computers and/or personal digital assistants (PDA) owned and/or used by them in connection with Defendants' business. 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 the computer and/or PDA, and all passwords necessary to access and use the software contained on the computer and/or PDA. The Commission shall be authorized to make an electronic, digital or hard copy of all of the data contained on the computer(s) and/or PDA(s).

26. All persons, including but not limited to the Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with any Defendant, including any successor thereof, and any persons who receive actual notice of this Order by personal service or otherwise, are enjoined from in any way interfering with or in any way disturbing the assets and from filing or prosecuting any actions or proceedings which involve or which affect the assets, specifically including any proceeding initiated pursuant to the United States Bankruptcy Code or pursuant to Texas statutes, except with the prior permission of this Court.

27. Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with the Defendants, including any successor thereof, and any persons who receive actual notice of this Order by personal service or otherwise, shall cooperate in every way with the Commission and others working with them and provide such information related to the assets as the Commission reasonably request.

28. **IT IS FURTHER ORDERED** that absent express permission and leave by this Court, all clients, investors, trust beneficiaries, note holders, creditors, claimants, lessors, and all

other persons or entities seeking relief of any kind from Defendants' Assets (other than the present action by the Commission), in law or in equity, and all persons acting on behalf of any such investor, trust beneficiary, note holder, creditor, claimant, lessor, consultant group, or other person, including sheriffs, marshals, and all officers and deputies, and their respective attorneys, servants, agents and employees, are, until further order of this Court, hereby are restrained and enjoined from doing anything, directly or indirectly, to interfere with the administration of Defendants' Assets. Accordingly, all such persons are enjoined from engaging in any self-help, including set-offs, and from filing or prosecuting any actions or proceedings which involve or which affect Defendants' Assets, specifically including any proceeding initiated pursuant to the United States Bankruptcy Code, except with prior permission of this Court. Moreover, any such actions that are so authorized shall be filed in this Court.

VII. Order Granting Expedited Discovery

IT IS HEREBY ORDERED that:

29. The Commission may conduct expedited discovery, removing the prohibition upon discovery before the early meeting of counsel pursuant to FRCP 26(f), in accordance with FRCP 26(d), and that the Commission may take depositions of Defendants and non-parties subject to two calendar days notice pursuant to FRCP 30(a) and 45, that notice may be given personally, by facsimile, or by electronic mail, and more than ten depositions may be taken.

30. The Commission may conduct expedited discovery to enable the Commission to fulfill its statutory duties and protect investors from further loss or damage. This expedited discovery will allow the Commission to determine the full extent of Defendants' alleged wrongdoing (including, but not limited to, the possible involvement of others), locate

Defendants' other customers, identify customers' funds and other of the Assets, and clarify the sources of various funds.

VIII. Bond Not Required of Plaintiff

IT IS FURTHER ORDERED that:

31. Plaintiff Commission 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:

32. Defendant shall appear before this Court on the 1st day of September, 2010, at 1:00 p.m., before the Honorable Keith P. Ellison at the United States Courthouse for the Southern District of Texas, 515 Rusk Avenue, Houston, Texas 77002, 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 why the other relief requested should not be granted pending trial on the merits of this action.

33. Should any party wish to file a memorandum of law or other papers in opposition to Plaintiff's Motion for a Preliminary Injunction, all papers shall be filed on or before August 27, 2010 and served via facsimile or overnight delivery to the Commission's Washington D.C. office no later than 5:00 o'clock p.m. on August 27, 2010. Any reply papers shall be filed with the Court and delivered to opposing counsel no later than 5:00 o'clock p.m. on August 30, 2010. Service of all papers shall be by electronic mail, facsimile, or personal service.

X. Service**IT IS FURTHER ORDERED** that:

34. Copies of this Order, summons and Complaint 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 the Assets that may be subject to any provision of this Order, and, additionally, that Kenneth McCracken, Elizabeth Davis, Andrew Ridenour, Jessica Harris, Erica Bodin, Jeremy Christianson and Richard Glaser, or representatives thereof, and representative(s) of the U.S. Marshal Service are specially appointed by the Court to effect service, and service on corporate entities may be effected by serving the Summons, Complaint, or other process via overnight delivery to the registered agent of said corporate entities. Further, law enforcement officers, including but not limited to U.S. Marshals and the Atoka County, Oklahoma Sheriff, are authorized to assist Commission representatives in effecting service of the Order, summons and Complaint upon Defendants and carrying out the seizure of documents as set out in this Order in accordance with FRCP 4.

XI. Force and Effect

IT IS FURTHER ORDERED that:

35. 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 Houston, Texas on the 18th day of August,
2010, at 5:05 p.m.


UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF TEXAS