UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

U.S. COMMODITY FUTURES TRADING COMMISSION, **Plaintiff,** **vs.** **BEAU DIAMOND and DIAMOND VENTURES LLC,** **Defendants.**	Case No. 8:09-CV-1811-T-17AEP

RESTRAINING ORDER

This Court having read the Complaint for Injunctive and Other Equitable Relief, the *Ex Parte* Motion for Entry of a Statutory Restraining Order, the brief in support thereof, the Declarations of Carol DeLoach, Craig Siegel, James Cain, Robin Witten and CFTC Senior Investigator Mary Elizabeth Spear, as well as the exhibits thereto, and all other papers filed herein by the Plaintiff, Commodity Futures Trading Commission ("Commission"), it appearing that this Court has jurisdiction over the subject matter and that Section 6c of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1, permits this Court to grant an *ex parte* restraining order; it further appearing to the satisfaction of the Court that there is good cause to believe that Defendants Beau Diamond ("Diamond") and Diamond Ventures LLC ("DVL") (collectively referred to as "Defendants"), have engaged, are engaging in and are about to engage in violations of Section 4b(a)(2)(A)-(C) 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 of 2008 ("CRA")), § 13102, 122 Stat. 1651 (effective June 18, 2008), to be codified at 7 U.S.C. § 6b(a)(2)(A)-(C). and it further appearing to the satisfaction of the Court that this is a proper case for granting a restraining order to preserve the status quo and to protect public customers from loss and damage;

1. **IT IS HEREBY ORDERED** that Diamond and DVL and all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns or attorneys of the Defendants and all persons insofar as they are acting in active concert or participation with them, who receive actual notice of this Order by personal service, facsimile, electronic mail, Federal Express or otherwise, shall be restrained, enjoined and prohibited from directly or indirectly:

a) Dissipating, withdrawing, transferring, removing, concealing or disposing of cash, cashier's checks, funds, assets or other property of, or within the custody, control or possession of the Defendants, including funds or property of investors, wherever located, whether held in the name of Beau Diamond, Diamond Ventures LLC, or otherwise; and

b) Destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Defendants wherever located, including all such records concerning the Defendants' business operations, until further order of the Court.

2. **IT IS FURTHER ORDERED THAT** each firm, corporation or other person or entity with notice which holds or which is a depository of, funds, securities, property, or other assets of or under the control of Beau Diamond or Diamond Ventures LLC, whether held in the name of Beau Diamond or Diamond Ventures LLC, or otherwise, including funds and property

of investors, is prohibited from transferring, withdrawing, removing, or disposing of any such funds, securities, property, or other assets until further order of the Court.

3. **IT IS FURTHER ORDERED** that all issues related to expedited discovery are referred to the assigned U.S. Magistrate Judge, and Plaintiff shall file a separate Motion for Expedited Discovery for determination by Judge Porcelli.

4. **IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including electronic mail, facsimile transmission and Federal Express, upon any financial institution or other 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. The U.S. Marshal's service and all employees of the CFTC, are hereby specially appointed to serve process, including this Order and all other papers in this cause.

5. **IT IS FURTHER ORDERED** that the Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Plaintiff Commission by delivering a copy to Diane M. Romaniuk, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

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

7. **IT IS FURTHER ORDERED** that this Statutory Restraining Order shall remain in full force and effect until September 11, 2009, and that this Court retains jurisdiction of this matter for all purposes

8. **IT IS FURTHER ORDERED** that the Motion for Preliminary Injunction is referred to the Honorable Anthony E. Porcelli, United States Magistrate Judge, including all

hearings, motions and deadlines related to the Preliminary Injunction. Judge Porcelli should schedule a hearing on the Motion for Preliminary Injunction prior to the expiration of the Temporary Restraining Order.

9. **IT IS FURTHER ORDERED** that should any party wish to file a memorandum of law or other papers in opposition to the Motion for a Preliminary Injunction, all papers shall be filed on or before September 10, 2009 and served no later than September 10, 2009.

10. **IT IS FURTHER ORDERED** that Plaintiff's Motion for a Preliminary Injunction will be set for hearing before the assigned U.S, Magistrate Judge in a separate Order, at the U.S. Courthouse at 801 North Florida Avenue, Tampa, Florida 33602.

Date: September 3, 2009 at 3:45 p.m.

Elizabeth A. Kovachevich
United States District Judge