

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

_____		)	
U.S. COMMODITY FUTURES TRADING	)		
COMMISSION,	)		
	)		
Plaintiff,	)	CASE NO.11-CV-128	
	)		
v.	)		
	)		
JADE INVESTMENTS GROUP, LLC,	)	Filed Under Seal	
JADEFX LTD. aka JADEFX LLC, and	)		
JACOB JUMA OMUKWE,	)		
	)		
Defendants.	)		
_____		)	

~~(PROPOSED)~~ EX PARTE STATUTORY RESTRAINING ORDER  
AND ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

This matter came before the Court on Plaintiff U. S. Commodity Futures Trading Commission's ("Commission") Motion for an *Ex Parte* Statutory Restraining Order, Expedited Discovery, Appointment of Receiver, and an Order to Show Cause Regarding Preliminary Injunction (the "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 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 (the "Act"), as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XII (the CFTC Reauthorization Act of 2008 ("CRA")) § 13102, 122 Stat. 1651 (enacted June 18, 2008) to be

codified at 7 U.S.C. § 13a-1 (2006), and Section 2(c)(2) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 2(c)(2).

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 Defendants Jade Investments Group, LLC (“Jade”), JadeFX LTD (aka JadeFX LLC) (“JadeFX”), and Jacob Juma Omukwe (“Omukwe”)(collectively the “Defendants”) have engaged, are engaging, and are 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.*

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 and 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 Commission representatives access to inspect and copy records to ensure that Commission representatives have immediate and complete access to those books records.

6. Good cause exists for the appointment of a temporary Receiver for the Defendants' assets and the assets of any affiliates or subsidiaries of any Defendant, with the full powers of an equity receiver, as set-forth herein.

7. Good cause exists to require an accounting to determine the location and disposition of Defendants' customer funds.

8. Good cause exists to order repatriation of assets controlled by Defendants to assure payment of restitution and disgorgement as authorized and for the benefit of customers.

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

10. 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 the purposes of this Order, the following definitions apply:

11. 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.

12. “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, claims and causes of action, 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.

13. “Defendants” means Jade, JadeFX, and Omukwe, and any person insofar as he or she has acted or is acting in the capacity of an officer, agent, servant, employee, or attorney of Jade, JadeFX or Omukwe, 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 participating with Jade, JadeFX or Omukwe.

### **RELIEF GRANTED**

#### **I.**

#### **Order Against Transfer, Dissipation, and Disposal of Assets**

**IT IS HEREBY ORDERED** that:

14. Defendants, and 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 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 Defendants’

assets, wherever located, including Defendants' assets held outside the United States, except as provided in Section III 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.

15. 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:

16. Provide the Commission and the Receiver with a full accounting of all Defendants' assets, inside and outside of the United States, from June 1, 2009 to the date of this Order;



18. Provide the Commission and Receiver 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.

IV.

**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 Defendants' assets at any time since June 1, 2009, shall:

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

27. Deny Defendants and all other persons, other than the Receiver, 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; or (b) otherwise subject to access by Defendants;

28. Provide the Receiver and 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, 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

~~12~~ 6

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

29. Upon request by the Commission and/or Receiver, promptly provide the Commission and Receiver 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.

V.

#### **Maintenance of Business Records**

**IT IS FURTHER ORDERED** that:

30. 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 books, records or documents in the possession or control of the Defendants, their agents, attorneys, partners, servants, representatives, employees, any person(s) acting or purporting to act for or on their behalf, and/or acting for or on behalf of any corporation, partnership or any other type of entity in which Defendants have an interest.

ts 7

**VI.**

**Inspection and Copying of Books and Records**

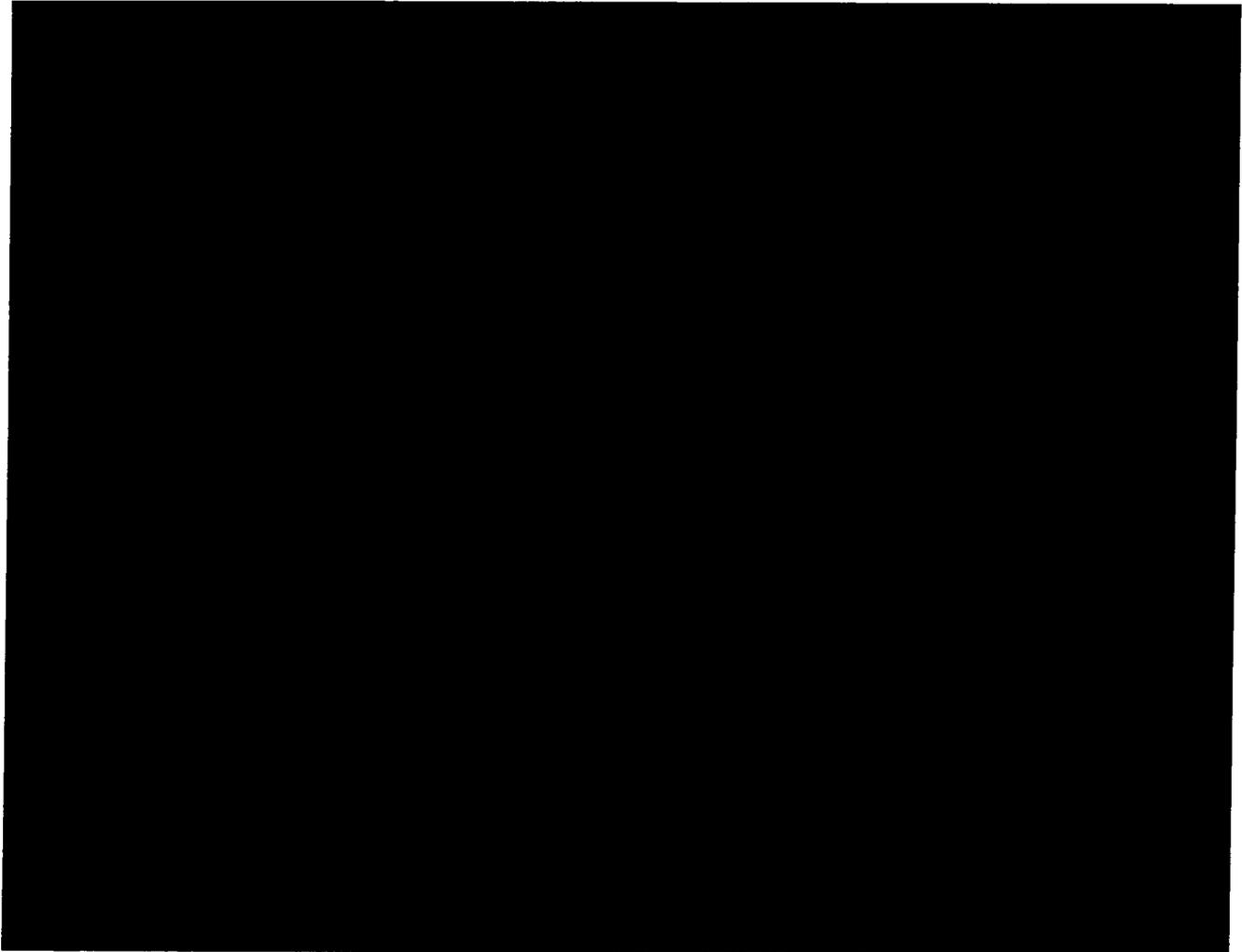
**IT IS FURTHER ORDERED** that:

31. Representatives of the Commission and Receiver be immediately allowed to inspect the books, records, and other documents of Defendants and their agents, attorneys, partners, servants, representatives, employees, any person(s) acting or purporting to act for or on their behalf, and/or acting for or on behalf of any corporation, partnership or any other type of entity in which Defendants have an interest, wherever situated, including, but not limited to , electronically stored information, tape recordings, and computer discs, wherever they may be situated and whether they are in the possession or control of the Defendants, or the possession or control of others, and to copy said documents, data and records, either on or off the premises wherever located; and

32. U.S. Marshal's Office, as well as state and local law enforcement agencies, are authorized to accompany and to assist the Commission's representatives outside and inside the premises, as well as secure the premises, in the service and execution of this Order and to undertake such efforts as are reasonably necessary to ensure that the Commission's representatives have an unimpeded right to inspect and copy books, records and documents as set forth above; and

33. Defendants and their agents, servants, employees, assigns, attorneys, and person(s) in active concert or participation with Defendants, 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 Commission and/or the Receiver to locate and provide to representatives of the Commission and/or the Receiver all books and records of Defendants, wherever such books and records may be situated, and to locate and provide to representatives of the Commission and/or the Receiver information regarding the whereabouts of Defendants.



**VIII.**

**Bond Not Required of Plaintiff**

**IT IS FURTHER ORDERED** that:

36. The 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:

37. Defendants shall appear before this Court on the 8 day of March, 2011, at 1:00, p.m., before the Honorable William Conley at the United States Courthouse for the Western District of Wisconsin 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.

38. 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 noon, March 8, 2011. Service of all papers shall be by electronic mail, overnight mail, facsimile, or personal service.

**X.**

**Service**

**IT IS FURTHER ORDERED** that:

39. This Order shall 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 Defendants, or that may be subject to any provision of this Order; and

40. The Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Tracey Wingate, Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581 and to the Receiver.

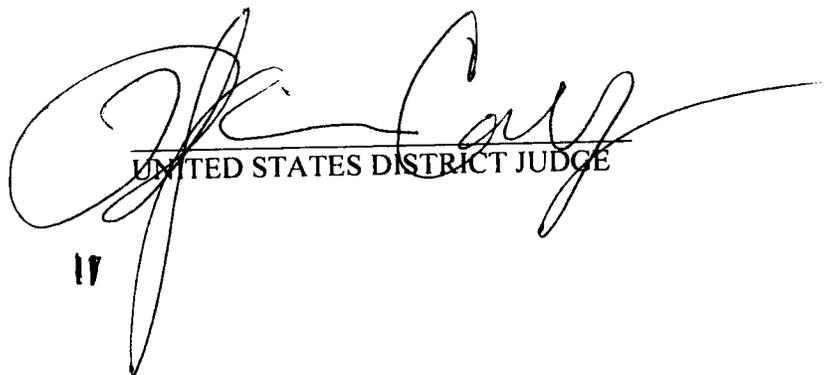
41. The Summons, Complaint, or other process may be effected by any Commission representative, any U.S. Marshal or deputy U.S. Marshal, or in accordance with Fed R. Civ. P. 4.

**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.

**SO ORDERED**, at Madison, Wisconsin, this 1 day of March, 2011.

  
UNITED STATES DISTRICT JUDGE