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FILED
CLERK, U.S DISTRICT COURT
MAR 15 2011
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

COPY

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT CALIFORNIA

UNITED STATES COMMODITY FUTURES TRADING COMMISSION, and THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA, **Plaintiffs,** **vs.** **THE TRADE TECH INSITUTE, INC., TECHNOLOGY TRADING INTERNATIONAL, INC., RICHARD CARTER, AND ROBERT SORCHINI (AKA "JACK GOLD" AND "FRANK THOMAS"),** **Defendants.**	**FILED UNDER SEAL** **CASE NO:** CV11 02163 GHK PLAx **[PROPOSED] ORDER GRANTING CFTC's *EX PARTE* EMERGENCY APPLICATION FOR STATUTORY RESTRAINING ORDER** COPY

Before the Court is Plaintiff Commodity Futures Trading Commission's ("CFTC") *Ex Parte* Emergency Application for a Statutory Restraining Order, Preliminary Injunction, and Other Related Equitable Relief Against Defendants ("SRO Application"). The Court, having considered the SRO Application, the memorandum filed in support thereof ("SRO Memo"), having heard the arguments of CFTC's counsel, and based upon the entire record before the Court, finds that:

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MAR 14 2011
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

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 XIII (the CFTC Reauthorization Act of 2008), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. § 13a-1.

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

3. There is good cause to believe that defendants The Trade Tech Institute, Inc. ("Trade Tech"), Technology Trading International, Inc. ("Tech Trading"), Richard Carter ("Carter"), and Robert Sorchini (aka "Jack Gold" and "Frank Thomas") ("Sorchini") (collectively, "Defendants") have engaged, are engaging, and are about to engage in acts and practices constituting violations of the Act, 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 Defendants' clients 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 Defendants, including any successor thereof, from destroying records and/or denying CFTC representatives immediate access to inspect and copy records to ensure that CFTC 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 clients, identify assets of Defendants, and clarify the source of various funds.

8. 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.

9. The interest of justice requires that the CFTC's obligation to notify Defendants' counsel of its Application, as is required by Central District of California Local Rule 7-19.1, be waived.

I.

DEFINITIONS

For purposes of this Order, the following definitions apply:

10. 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.

11. "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, futures, or options contracts), insurance policies, and all cash, wherever located.

12. "Defendants" shall mean and refer to not only Trade Tech, Tech Trading, Carter, and Sorchini 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 Trade Tech, Tech Trading, Carter, and/or Sorchini.

II.

RELIEF GRANTED

Order Against Transfer, Dissipation, and Disposal of Assets

IT IS HEREBY ORDERED that:

13. 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.

14. 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.

III.

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:

15. Provide the CFTC with a full accounting of all Defendants' Assets, both inside and outside of the United States, from January 1, 2007 to the date of this Order;

16. Transfer to the territory of the United States all funds, documents, and 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

17. Provide the CFTC 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 January 1, 2007, shall:

18. Prohibit Defendants and all other persons 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;

19. 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; or (b) otherwise subject to access by Defendants;

20. 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 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 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

21. 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.

V.

Maintenance of Business Records

IT IS FURTHER ORDERED that:

22. 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 at issue in the Complaint or business or personal finances of Defendants and their subsidiaries or affiliates.

VI.

Inspection and Copying of Books and Records

IT IS FURTHER ORDERED that:

23. Representatives of the CFTC shall immediately be 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 Defendants' premises;

24. Defendants, and their subsidiaries, affiliates, and their officers, agents, servants, employees and attorneys, shall, within 24 hours of the service of this Order, cause to be prepared and delivered to the CFTC, a detailed and complete schedule of all desk top computers, laptop computers and/or any other electronic storage devices or mobile devices, including, without limitation, smart phones and personal digital assistants (collectively, "Computing Devices") 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 Computing Device, along with its location, the name of the person primarily assigned to use the Computing Device, and all passwords necessary to access and use the software contained on the Computing Device. The CFTC shall be authorized to make an electronic, digital or hard copy of all of the data contained on the Computing Devices.

25. Defendants and their agents, servants, employees, assigns, attorneys, and persons 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 CFTC to locate and provide to representatives of the CFTC all books and records of Defendants, wherever such books and records may be situated, and to locate and provide to representatives of the CFTC information regarding the whereabouts of Defendants.

VII.

Order Granting Expedited Discovery

IT IS HEREBY ORDERED that:

26. The CFTC 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 CFTC 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 and, if necessary, any deposition may last more than seven hours.

27. The CFTC may conduct expedited discovery to enable the CFTC to fulfill its statutory duties and protect entities from further loss or damage. This

expedited discovery will allow the CFTC to determine the full extent of Defendants' alleged wrongdoing (including, but not limited to, the possible involvement of others), locate Defendants' other victims, identify Defendants' 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.

Hearing

IT IS FURTHER ORDERED that:

29. The CFTC and Defendants shall appear before this Court on the 28th day of March, 2011, at 9:30, a.m., before the Honorable Judge George H. King at the United States Courthouse for the Central District of California, Western 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 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 the CFTC's Application, all papers shall be filed on or before March 21, 2011 by noon and served via facsimile or overnight delivery to the CFTC's Kansas City office no later than 12 o'clock p.m. on March 21, 2011. Any reply papers shall be filed with the Court and delivered to opposing counsel no later than 12 o'clock p.m. on March 23, 2011. Service of all papers shall be by electronic mail, facsimile, or personal service. A mandatory chambers copy shall be provided at the time of filing.

X.

Service

IT IS FURTHER ORDERED that:

31. 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 Defendants' Assets that may be subject to any provision of this Order, and, additionally, that Jo Mettenburg, Peter Riggs, Jeff Le Riche, Jennifer Chapin, Stephen Turley, Jeremy Christianson, Joyce Brandt, Gina Weydert, 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 members of the Los Angeles Police Department or other local law enforcement agencies, are authorized to assist CFTC 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. The U.S. Marshals and members of the Los Angeles Police Department or other local law enforcement agencies shall be permitted to accompany CFTC personnel to any location necessary to effectively execute this Order for the purpose of ensuring the security of CFTC personnel. Any fees incurred by the CFTC for services rendered by the U.S. Marshals shall be waived. The U.S. Marshals and members of the Los Angeles Police Department or other local law enforcement agencies are hereby held harmless for their actions in effecting the provisions of this Order.

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 Los Angeles, on the 25 day of March 2011, at ____ __.m.

UNITED STATES DISTRICT JUDGE
CENTRAL DISTRICT OF CALIFORNIA

AUDREY COLLINS

CONSENT TO RELEASE OF FINANCIAL RECORDS

I, _____, a resident of _____, do hereby direct any bank, trust, or other financial company, as well as any of its officers, employees, and agents, at which I have or had a bank account or other financial account of any kind operated under my name or any other name (including any corporation or other entity) for which I am or was authorized to draw on the account, to disclose all information and deliver copies of all documents of every nature in the bank's, trust's, or other financial company's possession or control which relate to said bank or other financial accounts to any attorney of the United States Commodity Futures Trading Commission, and to give evidence relevant thereto, in the matter of Commodity Futures Trading Commission v. The Trade Tech Institute, Inc., et al., Case No._____, now pending before the United States District Court for the Central District of California, and this shall be irrevocable authority for so doing. This direction is intended to apply to the laws of countries other than the United States which restrict or prohibit the disclosure of bank information without the consent of the holder of the account, and shall be construed as consent with respect thereto, and the same shall apply to any of the bank accounts or other financial accounts for which I may be a relevant principal.

Dated:_____ Signature: _____

Print name: _____