

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**U. S. COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

**PEREGRINE FINANCIAL GROUP, INC.,
and
RUSSELL R. WASENDORF, SR.,**

Defendants.

Civil Action No: 1:12-cv-5383

Honorable Rebecca C. Pallmeyer

Magistrate Judge Young B. Kim

RRP

***[PROPOSED]* ORDER OF PRELIMINARY INJUNCTION AND OTHER ANCILLARY
RELIEF AGAINST DEFENDANTS PEREGRINE FINANCIAL GROUP, INC. AND
RUSSELL R. WASENDORF, SR.**

On July 10, 2012, Plaintiff Commodity Futures Trading Commission (“CFTC” or “Commission”) filed a Complaint for Injunctive and Other Equitable Relief and for Civil Monetary Penalties under the Commodity Exchange Act (“Complaint”) against Defendants Peregrine Financial Group, Inc. (“PFG”), and Russell R. Wasendorf, Sr. (“Wasendorf”) seeking injunctive and other equitable relief for violations 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 (“CRA”)), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008) and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203 (“Dodd-Frank Act”), Title VII (the Wall Street Transparency and Accountability Act of 2010), §§701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified

at 7 U.S.C. §§ 1 *et seq.*, and the Commission Regulations (“Regulations”) promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2012).

More specifically, the Complaint alleges that Defendants misappropriated over \$200 million of customer funds and filed false reports with the Commission regarding the amount of PFG’s customer segregated accounts, and in doing so violated Sections 4d(a), 4b(a)(1)(A), (C), and 6(c)(2) of the Act, as amended, to be codified at 7 U.S.C. § 6d(a), 6b(a)(1)(A), (C), and 9(2), and Regulation 1.20(a), 17 C.F.R. § 1.20(a) (2012).

On July 10, 2012, upon good cause shown, this Court entered a Statutory Restraining Order (“SRO”) prohibiting the withdrawal, transfer, removal, dissipation, concealment, or disposition of Defendants’ assets, prohibiting the destruction of, or prevention of CFTC access to, Defendants’ books and records, and providing for other relief.

This matter is now before this Court on Plaintiff’s Motion for an Order of Preliminary Injunction (“Motion”) which seeks an order that preliminarily enjoins Defendants from committing further violations of the Act, as amended, continues the freeze over Defendants’ assets, prevents the destruction of, and allows Commission to inspect, Defendants’ books and records, and grants other equitable relief.

This Court, having considered the Plaintiff’s Memorandum of Points and Authorities in Support of Its Motion for a SRO, the Appendix to Plaintiff’s Motion for a SRO and attachments to this Motion, and being fully advised in the premises;

THIS COURT HEREBY FINDS:

1. Pursuant to Section 6c(a) of the Act, as amended, to be codified at 7 U.S.C. § 13a-1(a), this Court has jurisdiction over the parties and subject matter of this action and is authorized to issue preliminary relief against Defendants.

2. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (Supp. III 2009).

3. It appears to the satisfaction of the Court that there is good cause to believe that Defendants have engaged, are engaging, or are about to engage in conduct in violation of the Act. More specifically, there is good cause to believe that Defendants misappropriated over \$200 million of customer funds and filed false reports with the Commission regarding the amount of PFG's customer segregated accounts, and in doing so, violated Sections 4d(a), 4b(a)(1)(A), (C), and 6(c)(2) of the Act, as amended, to be codified at 7 U.S.C. §§ 6d(a), 6b(a)(1)(A), (C), and 9(2), and Regulation 1.20(a), 17 C.F.R. § 1.20(a) (2012).

4. It appears to the satisfaction of the Court that there is good cause to believe Defendants' violations of the Act are likely to continue unless they are restrained and enjoined from committing further violations.

5. It appears to the satisfaction of the Court that there is good cause to believe that Defendants' customers have been and may continue to be cheated and defrauded, and the Court will be irreversibly deprived of its ability to grant effective final relief in the form of monetary redress due to the dissipation of customer assets unless Defendants are immediately restrained and enjoined by order of the Court.

6. Consequently, the Court is satisfied that it should grant a preliminary injunction to preserve the status quo, protect public customers from loss and damage, and enable the CFTC to fulfill its statutory duties.

**SPECIAL FINDING AND PROVISION REGARDING THE RECEIVER AND
BANKRUPTCY TRUSTEE**

7. Nothing herein shall be construed or is intended to imply in any way that either: 1) Michael Eidelman (and his representatives) in his capacity as duly-appointed temporary receiver in this case; or 2) Ira Bodenstein (and his representatives) in his capacity as Trustee in the bankruptcy case entitled In re Peregrine Financial Group, Inc., No. 12-27488 (Bkrtcy. N.D. Ill., filed July 10, 2012) have engaged or are engaged in any improper or illegal conduct. Moreover, nothing in this Order shall be construed or is intended to enjoin or restrict in any way the authority, duties, and actions of: 1) Michael Eidelman (and his representatives) in his capacity as duly-appointed temporary receiver in this case; and 2) Ira Bodenstein (and his representatives) in his capacity as Trustee in the bankruptcy case entitled In re Peregrine Financial Group, Inc., No. 12-27488 (Bkrtcy. N.D. Ill., filed July 10, 2012).

DEFINITIONS

For the purposes of this Order, the following definitions apply:

1. The term "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, checks, notes, accounts, credits, receivables, lines of credit, contracts, insurance policies and all cash, wherever located.

2. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Fed. R. Civ. P. 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.

3. "Defendants" means Peregrine Financial Group, Inc. and Russell R. Wasendorf, Sr., but does not mean or intend to include the Chapter 7 Bankruptcy Estate of Peregrine Financial Group, Inc., Ira Bodenstein (and his representatives) in his capacity as bankruptcy Trustee or Michael Eidelman (and his representatives) in his capacity as duly-appointed temporary receiver in this case.

PRELIMINARY INJUNCTIVE RELIEF GRANTED

I. VIOLATIONS OF THE ACT PRELIMINARILY ENJOINED

IT IS ORDERED that Defendants PFG and Wasendorf are preliminarily enjoined and prohibited, until further order of the Court, from directly or indirectly violating Sections 4d(a)(2), 4b(a)(1)(A), (C), and 6(c)(2) of the Act, as amended, to be codified at 7 U.S.C. § 6d(a)(2), 6b(a)(1)(A), (C), and 9(2) and Regulations 1.20(a) (2012).

II. ASSET FREEZE

IT IS FURTHER ORDERED that Defendants, all persons insofar as they are acting in the capacity of Defendants' agents, servants, successors, employees, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise, including email, facsimile, and UPS or other commercial overnight service, are restrained from directly or indirectly withdrawing, transferring, removing, dissipating, concealing, or disposing of, in any manner, any funds, assets, or other property, wherever situated, including, but not limited to, all funds,

personal property, money, or securities held in safes or safety deposit boxes and all funds on deposit in any financial or brokerage institution, futures commission merchant, bank, or savings and loan account held by, under the actual or constructive control of, or in the name of Defendants since January 2005. The assets affected by this paragraph shall include both existing assets and assets acquired after the effective date of this Order.

III. PROHIBITION AGAINST DESTRUCTION OF BOOKS AND RECORDS

IT IS FURTHER ORDERED that Defendants, all persons insofar as they are acting in the capacity of Defendants' agents, servants, successors, employees, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise, including email, facsimile, and UPS or other commercial overnight service, are restrained from directly or indirectly destroying, mutilating, concealing, altering, or disposing of any documents that related to the business practices or business or personal finances of the Defendants.

IV. CFTC ACCESS TO AND INSPECTION OF BOOKS AND RECORDS

IT IS FURTHER ORDERED that Defendants, all persons insofar as they are acting in the capacity of Defendants' agents, servants, successors, employees, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise, including email, facsimile, and UPS or other commercial overnight service, are enjoined from directly or indirectly refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records, or other property of Defendants, wherever located, including, but not limited to, all

such records concerning Defendants' business operations and Defendants' business or personal finances.

V. DIRECTIVES TO FINANCIAL INSTITUTIONS AND OTHERS

IT IS FURTHER ORDERED, pending further Order of this Court, that any bank, financial or brokerage institution, futures commission merchant, business entity, or person that holds, controls, or maintains custody of any account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants, either individually or jointly, or has held, controlled, or maintained custody of any account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants, either individually or jointly, at any time since January 2005, and who receives notice of this Order by personal service or otherwise, including facsimile, electronic mail, Federal Express and United Parcel Service, shall:

A. Prohibit Defendants and any other person from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;

B. Deny Defendants and all other person(s) access to any safe deposit box that is: (a) titled in the name of Defendants, either individually or jointly; or (b) otherwise subject to access by the Defendants;

C. 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 such account or asset titled in the name, individually or jointly, of the Defendants, or owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants; (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 either titled in the name, individually or jointly, of the Defendants or is otherwise subject to access by the Defendants; and

D. 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, 1099 forms, and safe deposit box logs.

VI. OTHER PRELIMINARY INJUNCTIVE RELIEF GRANTED

IT IS FURTHER ORDERED that Defendants are preliminarily enjoined from:

A. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a of the Act, to be codified at 7 U.S.C. § 1a;

B. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Commission Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2012)) (“commodity options”) and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act as amended by the CRA, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”) for any personal or proprietary account or for any account in which they have a direct or indirect interest;

C. having any commodity futures, options on commodity futures, commodity options and/or forex contracts traded on their behalf;

D. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options and/or forex contracts;

E. soliciting, receiving or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options and/or forex contracts;

F. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012); and

G. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2012)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2012).

VII. BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED that pursuant to Section 6c(b) of the Act, as amended, 7 U.S.C. § 13a-1(b) (Supp. III 2009), no bond need be posted by the Commission, which is an agency of the United States of America.

VIII. STAY OF OTHER ACTIONS

IT IS FURTHER ORDERED that except by leave of the Court, Defendants and all other persons and entities be and hereby are stayed from taking any action to establish or enforce any claim, right or interest for, against, on behalf of, or in the name of Defendants, including but not limited to, the following actions:

A. Commencing, prosecuting, litigating or enforcing any suit, except that actions may be filed to toll any applicable statute of limitations;

B. Accelerating the due date of any obligation or claimed obligation, enforcing any lien upon, or taking or attempting to take possession of, or retaining possession of, property of Defendants or any property claimed by Defendants, or attempting to foreclose, forfeit, alter or terminate any Defendant's interests in property, whether such acts are part of a judicial proceeding or otherwise;

C. Using self-help or executing or issuing, or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wherever located, owned by or in the possession of any Defendant; and

D. Doing any act or thing to interfere with the exclusive jurisdiction of this Court over the property and assets of Defendants. This paragraph does not stay the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

IX. SERVICE OF THE ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including by way of personal service, UPS or other commercial overnight service, email, facsimile or pursuant to Fed. R. Civ. P. 5 and Articles 2 through 10 of the Hague Convention, Service Abroad of Judicial and Extrajudicial Documents, upon any financial or brokerage institution, futures commission merchant, bank, savings and loan institution, other financial institution, or any other person or entity that holds any accounts, funds, assets, or other property of Defendants or that may have possession, custody, or control of any documents of Defendants, or that may be subject to any provision of this Order. William P. Janulis, Rosemary Hollinger,

Jon Kramer and Melissa Glasbrenner, all representatives of the Commission, are hereby specially appointed to serve process and/or effectuate service of process, including of this Order and all other papers in this action.

X. FORCE AND EFFECT

IT IS FURTHER ORDERED that this Order supersedes the prior Statutory Restraining Order, entered July 10, 2012, and shall remain in full force and effect until further Order of this Court. Moreover, this Court shall retain jurisdiction over this action to ensure compliance with this Order and for all other purposes related to this action.

DATED: 08/08/2012


UNITED STATES DISTRICT JUDGE