

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

LARRY BENNY GROOVER

Defendant,

and

JOANNE GROOVER

Relief Defendant.

FILED UNDER SEAL

CASE NO.: 4:11-cv-64

**ORDER GRANTING PLAINTIFF'S *EX PARTE* EMERGENCY
MOTION FOR STATUTORY RESTRAINING ORDER**

Before the Court is Plaintiff Commodity Futures Trading Commission's ("Commission" and "Plaintiff") *Ex Parte* Emergency Motion for Statutory Restraining Order, Expedited Discovery, Preliminary Injunction, and Other Equitable Relief (the "SRO Motion")(docket entry #2). The Court, having considered the SRO Motion 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 Section 6c of the Commodity Exchange Act, 7 U.S.C. §§ 13a-1 (2006) (the "Act").

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 Defendant Larry Benny Groover (“Defendant”) has engaged, is engaging or is about to engage in acts and practices constituting violations of the Act, as amended, 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 Defendant’s customers in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by Defendant of assets or records unless Defendant and his wife, Relief Defendant, Joanne Groover (“Relief Defendant”) 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 Defendant and Relief Defendant.

6. Good cause exists for entry of an order prohibiting Defendant and Relief Defendant, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with them, including any successor thereof, from destroying records and/or denying agents of the Commission 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 Plaintiff to conduct expedited discovery in order to determine the full extent of Defendant’s alleged wrongdoing, locate Defendant’s other customers, identify customers’ funds and other of the assets of the Defendant and Relief Defendant, and clarify the source of various funds.

8. Weighing the equities and considering Plaintiff’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, wherever located.

11. “Defendant” shall mean and refer to not only Groover, 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 Groover.

12. “Relief Defendant” shall mean and refer to not only Mrs. Groover, 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 Mrs. Groover

RELIEF GRANTED

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

IT IS HEREBY ORDERED that:

13. Defendant and Relief Defendant, 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.

14. Defendant and Relief Defendant 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 them.

II. Accounting and Transfer of Funds and Documents

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

15. 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 Defendant and Relief Defendant for their benefit, or under their direct or indirect control, whether jointly or singly;

16. 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 Defendant and Relief Defendant for their benefit, or under their direct or indirect control, whether jointly or singly; and

17. Provide the Commission immediate access to all records of Defendant and Relief Defendant 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 June 18, 2008, shall:

18. Prohibit Defendant and Relief Defendant 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;

19. Deny Defendant and Relief Defendant 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 Defendant and Relief Defendant, either individually or jointly, whether in the name, alias, or fictitious “doing business as” name; or (b) otherwise subject to access by Defendant and Relief Defendant;

20. 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

Defendant and Relief Defendant (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 Defendant and Relief Defendant, either individually or jointly, or is otherwise subject to access by Defendant and Relief Defendant; and

21. 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.

IT IS FURTHER ORDERED that absent express permission and leave of this Court, all clients, investors, trust beneficiaries, note holders, creditors, claimants, lessors, and all other persons or entities seeking relief of any kind from Defendant's and Relief Defendant's 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 Defendant's and Relief Defendant's 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 Defendant's and Relief Defendant's 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.

IV. Maintenance of Business Records

IT IS FURTHER ORDERED that:

22. Defendant and Relief Defendant, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendant and Relief Defendant, 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 Defendant and Relief Defendant.

V. Inspection and Copying of Books and Records

IT IS FURTHER ORDERED that:

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

24. Defendant and Relief Defendant, 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 Commission, 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 Defendant's 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 Commission shall be authorized to make an electronic, digital or hard copy of all of the data contained on the Computing Devices;

25. Defendant and Relief Defendant, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with them, 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 Defendant and Relief Defendant;

26. All persons, including but not limited to the Defendant and Relief Defendant, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with them, 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. Defendant and Relief Defendant, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with them, 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.

VI. Order Granting Expedited Discovery

IT IS HEREBY ORDERED that:

28. 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 Defendant and Relief Defendant 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.

29. 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 Defendant's alleged wrongdoing (including, but not limited to, the possible involvement of others), locate Defendant's other customers, identify customers' funds and other of the Assets, and clarify the sources of various funds.

VII. Bond Not Required of Plaintiff

IT IS FURTHER ORDERED that:

30. Plaintiff is an agency of the United States of America and, accordingly, need not post a bond.

VIII. Order to Show Cause

IT IS FURTHER ORDERED that:

31. Defendant Larry Benny Groover shall appear before the United States Magistrate Judge on the 22nd day of February, 2011 at 1:30 p.m., before the Honorable Don D. Bush at the United States Courthouse for the Eastern District of Texas, 7940 Preston Road, Room 110, Plano, Texas 75024, 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.

32. Should any party wish to file a memorandum of law or other papers in opposition to the SRO Motion, all papers shall be filed on or before 12:00 p.m., February 17, 2011 and served via facsimile to the Commission's Kansas City, Missouri office no later than 12:00 p.m. on February 17, 2011. The Court will not accept a reply.

IX. Service

IT IS FURTHER ORDERED that:

33. Copies of this Order 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 Jennifer J. Chapin, Jeff Le Riche, Jo E. Mettenburg, Peter Riggs, Stephen B. Turley, or representatives thereof, and representative(s) of the U.S. Marshal Service are specially appointed by the Court to effect service. Further, service of 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 FRCP 4. Further, law enforcement officers, including but not limited to U.S. Marshals, are authorized to assist Commission representatives in effecting service of this Order, summons and Complaint upon Defendant and Relief Defendant and carrying out the seizure of documents as set out in this Order in accordance with FRCP 4.

X. Force and Effect

IT IS FURTHER ORDERED that:

34. This Order shall remain in full force and effect until further order of this Court and this Court retains jurisdiction of this matter for all purposes.

SIGNED this the 11th day of February, 2011.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE

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 or investigator of the United States Commodity Futures Trading Commission and to give evidence relevant thereto, in the matter of *United States Commodity Futures Trading Commission v. Larry Benny Groover, et al.*, Case No. _____, now pending before the United States District Court for the Eastern District of Texas, and this shall be irrevocable authority for so doing. This direction is intended to apply to not only the laws of the United States, but also to the law 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