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U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

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U.S. DISTRICT COURT E.D.N.Y.

★ APR 16 2018

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

CV18 2247

Commodity Futures Trading Commission,
Plaintiff,

v.

Blake Harrison Kantor aka Bill Gordon,
Nathan Mullins,
Blue Bit Banc,
Blue Bit Analytics, Ltd.,
G. Thomas Client Services, and
Mercury Cove, Inc.,

Defendants,

and

Blue Wolf Sales Consultants,
Relief Defendant.

Civil Action No. ____

PROPOSED ORDER GRANTING
PLAINTIFF'S MOTION FOR A
STATUTORY RESTRAINING ORDER

FEUERSTEIN, J.

LINDSAY, M.J.

Plaintiff, the Commodity Futures Trading Commission ("Commission"), has filed a Complaint for Permanent Injunction and Other Relief and moved, pursuant to Section 6c(a) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 13a-1(a) (2012), and in accordance with Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 65, for a statutory restraining order freezing assets and allowing inspection of records. The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission's motion, and that Defendants Blake Harrison Kantor aka Bill Gordon, Blue Bit Banc, Blue Bit Analytics, Ltd., and G. Thomas Client Services, have and Relief Defendant, has, received notice of Plaintiff's motion for a statutory restraining order, and Defendants Nathan Mullins and Mercury Cove, Inc. have not received notice of Plaintiff's Motion for a statutory restraining order such that Plaintiff is proceeding *ex parte* only with respect to those two Defendants, and finds that:

1. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (2012) (federal question jurisdiction) and 28 U.S.C. § 1345 (2012) (district courts have original

jurisdiction over civil actions commenced by the United States or by any agency expressly authorized to sue by Act of Congress). Section 6c(a) of the Act authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging, or is about to engage in any act or practice that violates any provision of the Act or any rule, regulation, or order promulgated thereunder.

2. Venue lies properly within this District pursuant to Section 6c(e) of the Act.

3. The Commission has made a proper *prima facie* showing that since at least April 2014, Defendants, none of whom has ever been registered with the Commission, have been engaged in a fraudulent scheme involving illegal, off-exchange binary options trading. Defendants received at least \$618,810 from U.S. customers, at least some of which was misappropriated. The Defendants also transferred some of the customer funds they received to the Relief Defendant, which does not provide any apparent legitimate services to the Defendants or their customers and does not have any interest or entitlement to customer funds. Further, the Defendants fraudulently solicited customers to engage in binary options trading that they falsely claimed would generate significant profits based upon Defendant Kantor's purported past profitable trading.

4. Therefore, there is good cause to believe that the Defendants, by and through their agents, principals and control persons, Blake Harrison Kantor and Nathan Mullins, have engaged in, are engaging in or are about to engage in in violation of Sections 2(c), 4c(b), 4d(a)(1), 6(c)(1) of the Act, 7 U.S.C. §§ 2(c), 6c(b), 4d(a)(1) and 9(1) (2012), and Commission Regulations promulgated thereunder ("Regulations") 32.2, 32.4, and 180.1(a), 17 C.F.R. §§ 32.2, 32.4, 180.1(a) (2017).

5. There is also good cause to believe that Relief Defendant Blue Wolf Sales Consultants has received, is receiving, and is about to receive funds, assets or other property as a result of Defendants' violative acts and practices and has been unjustifiably enriched thereby. The Relief Defendant does not have any legitimate interest or entitlement to these funds, assets or other property received as a result of Defendants' violative conduct.

6. There is also 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 may occur from the withdrawal, transfer, removal, dissipation or other disposition of funds, assets or other property or destruction, alteration or disposition of books and records and other documents ("records") by Defendants and Relief Defendant unless Defendants and Relief Defendant are immediately restrained and enjoined by Order of the Court.

7. Therefore, there is good cause for the Court to freeze funds, assets or other property owned, controlled, managed or held by Defendants and Relief Defendant or in which they have any beneficial interest.

8. There is also good cause for the Court to prohibit Defendants and Relief Defendant from destroying, altering or disposing of records and/or denying agents of the Commission access to inspect records, when and as requested, to ensure that Commission representatives have immediate and complete access to those records.

9. In summary, this is a proper case for granting a restraining order freezing assets and allowing inspection of records because the Commission is likely to succeed on the merits. Moreover, there is also a reasonable likelihood that Defendants will transfer or dissipate assets or destroy or alter records. Therefore, the Court orders the following:

DEFINITIONS

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

10. The terms “funds, assets or other property” encompass any legal or equitable interest in, right to, or claim to, any real or personal property, whether individually or jointly, directly or indirectly controlled, 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 spot, futures, options, or swaps contracts), insurance policies, and all funds, wherever located, whether in the United States or outside the United States.

11. The terms “documents” and “electronically stored information” are synonymous in meaning and equal in scope to the usage of those terms in Fed. R. Civ. P. 34(a), and include, but are not limited to, all writings, drawings, graphs, charts, photographs, sound recordings, images, and other data and data compilations – stored in any medium from which information can be obtained or translated, if necessary, into reasonable usable form. The terms “documents” and “electronically stored information” also refer to each and every such item in Defendants’ and Relief Defendant’s actual or constructive possession, including but not limited to: (i) all such items within Defendants’ and Relief Defendant’s custody or control of any of their present agents, employers, employees, partners, and (ii) all items which Defendants and Relief Defendants have a legal or equitable right to obtain from another person. A draft or non-identical copy is a separate item within the meaning of the terms. A document also includes the file and folder tabs associated with each original and copy.

12. "Defendants" refers to Blake Harrison Kantor aka Bill Gordon, Nathan Mullins, Blue Bit Banc, Blue Bit Analytics, Ltd., G. Thomas Client Services, and Mercury Cove, Inc.

13. "Relief Defendant" means and refers to Blue Wolf Sales Consultants.

 ~~RELIEF GRANTED~~

 IT IS ~~FURTHER~~ ORDERED THAT:

I. Asset Freeze Order Prohibiting the Withdrawal, Transfer, Removal, Dissipation and Disposal of Assets

14. The Defendants and Relief Defendant are immediately restrained and enjoined, except as otherwise ordered by this Court, from directly or indirectly: withdrawing, transferring, removing, dissipating, or otherwise disposing of any funds, assets or other property, wherever located, including Defendants' and Relief Defendant's funds, assets or other property held outside the United States;

15. The funds, assets or other property affected by this Order shall include existing funds, assets or other property, and funds, assets or other property acquired after the effective date of this Order.

II. Maintenance of and Access to All Records Relating to the Business Activities and Business and Personal Finances

16. The Defendants and Relief Defendant are restrained from directly or indirectly destroying, altering, or disposing of, in any manner, any records that relate or refer to the business activities and business and personal finances of any Defendants or Relief Defendant.

17. Representatives of the Commission shall be immediately allowed to inspect the records relating or referring to the business activities and business and personal finances of the Defendants and Relief Defendant, including, but not limited to, both hard-copy documents and electronically stored information, wherever they may be situated and whether

they are in the possession of the Defendants and Relief Defendant, or others. To facilitate meaningful inspection and review, Defendants and Relief Defendant shall allow representatives of the Commission to make copies of said documents and electronically stored information, and if on-site copying of documents and electronically stored information is not practicable, representatives may make such copies off-site.

18. To further facilitate meaningful inspection and review, Defendants and Relief Defendant shall, absent a valid assertion of their rights against self-incrimination under the Fifth Amendment, promptly provide Commission staff with:

- a. the location of all records relating or referring to the business activities and business and personal finances of the Defendants and Relief Defendant;
- b. all identification numbers and other identifying information for websites, cloud storage services, email and smartphone accounts, and all accounts at any bank, financial institution or brokerage firm (including any introducing broker or futures commission merchant) owned, controlled or operated by Defendants and Relief Defendant, or to which the Defendants and Relief Defendant have access; and
- c. all passwords to, and the location, make and model of, all computers and/or mobile electronic devices owned and/or used by Defendants in connection with their business activities and business and personal finances.

19. When inspecting records that are subject to this Order, including those contained on computer(s) and/or other electronic device(s), the Commission ~~should~~ ^{shall} undertake reasonable measures to prevent review of the Defendants' or Relief Defendant's privileged communications [and/or other nonbusiness, nonfinancial materials] by the Commission's attorneys and other staff who are part of the litigation team in this matter. Moreover,



Defendants and Relief Defendant (or their counsel) shall promptly contact Plaintiff's counsel to assert any claims of privilege [or other legal objections] relating to the contents of any records that are subject to this Order and promptly cooperate with Plaintiff's counsel to develop reasonable protocols to isolate and prevent disclosure of claim privileged [and/or other nonbusiness, nonfinancial] materials to the Commission's attorneys and other staff who are part of the litigation team in this matter. However, nothing herein shall excuse Defendants' and Relief Defendant's from full and immediate compliance with this Court's Order permitting Plaintiff to inspect the books and records which relate to Defendants' or Relief Defendant's business activities and their business and personal finances.

III. Notice to Financial Institutions and Others that Hold or Control Assets or Records

20. To ensure the effectiveness of the asset freeze and pending further Order of this Court, any financial or brokerage institution, business entity, or person that receives actual notice of this Order and holds, controls, or maintains custody of any account or asset owned by, held for the benefit of, or otherwise under the control of any Defendant or Relief Defendant, shall not, ~~in active concert or participation with Defendants or Relief Defendant~~ ^{any} permit Defendants or Relief Defendants or other persons to withdraw, transfer, remove, dissipate, or otherwise dispose of Defendants' funds, assets or other property or Relief Defendant's funds, assets or other property, including, but not limited to, assets or property held in accounts or safety deposit boxes, except as directed by further order of the Court.

21. Any financial or brokerage institution, business entity, or person that receives notice of this Order by personal service or otherwise shall not, in active concert or participation with any Defendant or Relief Defendant, ^{or otherwise,} directly or indirectly destroy, alter or dispose of, in any manner, any records relating to the business activities and business and personal finances of any Defendant or Relief Defendant.

22. Furthermore, any financial or brokerage institution, business entity, or person that receives actual notice of this Order and holds, controls, or maintains custody of any account or asset titled in the name of, held for the benefit of, or otherwise under the control of any Defendant or Relief Defendant, or has held, controlled, or maintained custody of any such account or asset of any Defendant or Relief Defendant at any time since April 1, 2014, shall not, in active concert or participation with Defendants or Relief Defendant, ^{or otherwise} deny a request by the Commission to inspect all records pertaining to every account or asset owned, controlled, managed or held by Defendants or Relief Defendant, or managed or held on behalf, or for the benefit, of Defendants or Relief Defendant, 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. As an alternative to allowing inspection of records, a financial or brokerage institution, business entity or other person may provide copies of records requested by the Commission.



IV. Accounting and Transfer of Funds and Records

23. Absent a valid assertion by Defendants or Relief Defendant of their right against self-incrimination under the Fifth Amendment, Defendants given notice in advance of Plaintiff's instant motion, namely Blake Harrison Kantor aka Bill Gordon, Blue Bit Banc, Blue Bit Analytics, Ltd. and G. Thomas Client Services (hereinafter "Notified Defendants"), and Relief Defendant shall, within five (5) business days following the service of this Order:

- a. Provide the Commission with a full detailed accounting of all funds, records, and assets, including the assets inside and outside of the United States that are held by each and every Notified Defendant or Relief Defendant, for their benefit, or under their direct or indirect control, whether jointly or singly.

- b. Transfer to the territory of the United States and deliver to possession, custody, and control of the Commission or its designated custodian, all records, funds, and other assets (other than real property) located outside of the United States that are held by each and every Notified Defendant and Relief Defendant, for their benefit, or under their direct or indirect control, whether jointly or singly.
- c. Provide the Commission access to all records of accounts or assets of the Notified Defendants and Relief Defendant held by financial or brokerage institutions located within or outside the territorial United States by signing any necessary consent forms.

V. Persons Bound By this Order

24. This Order is binding on any person who receives actual notice of this Order by personal service or otherwise and is acting in the capacity of an officer, agent, servant, employee, or attorney of the Defendants and Relief Defendant, or is in active concert or participation with the Defendants or Relief Defendant.

VI. Bond Not Required of Plaintiff

25. As Plaintiff Commission has made a proper showing under Section 6c(b) of the Act, 7 U.S.C. 13a-1(b) (2012), it is not required to post any bond in connection with this Order.

VII. Service of Order and Assistance of United States Marshals Service and/or Other Law Enforcement Personnel

26. Copies of this Order may be served by any means, including via email or facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any records or assets of any Defendant or Relief Defendant, or that may be subject to any provision of this Order.

27. Susan Padove, Joseph Patrick, and representatives of the United States Marshal Service are specially appointed by the Court to effect service.

28. The United States Marshal's Service, and/or Special Agents of the FBI, IRS Agents, state or local law enforcement officers are authorized to: a) accompany and assist the Commission representatives in the service and execution of the Summons, Complaint and this Order on the Defendants or Relief Defendant, and b) help maintain lawful order while Commission representatives inspect records as provided in this Order.

VIII. Service on the Commission

29. The Defendants and Relief Defendant shall comply with all electronic filing rules and requirements of the U.S. District Court of the Eastern District of New York and shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Susan B. Padove, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 West Monroe Street, Suite 1100, Chicago, Illinois 60661, by electronic filing, e-mail, personal delivery or courier service (such as Federal Express or United Parcel Service) and not by regular mail due to potential delay resulting from heightened security and decontamination procedures applicable to the Commission's regular mail.

IX. Further Proceedings

30. Plaintiff's Motion for a Preliminary Injunction is set for hearing on the 26th day of April, 2018, at 11⁰⁰ a.m., before the Honorable Sandra J. Feuerstein Courtroom 1010 at the United States Courthouse for the Eastern District of New York, at 100 Federal Plaza, Central Islip, New York, 11722. Should any party wish to file a memorandum of law or other papers concerning the issuance of a preliminary injunction against the Defendants or Relief Defendant, such materials shall be





filed, served and received by all parties at least two (2) days before the hearing ordered above.

X. Force and Effect

31. This Order shall remain in full force and effect until ^{May 1, 2018} ~~[insert date no later than 14 days after entry of the order]~~ unless extended further by order of this Court pursuant to Fed.

R. Civ. P. 65(b)(2), and this Court retains jurisdiction of this matter for all purposes.

 IT SO ORDERED, at ^{Central Islip} ~~██████████~~, New York on this ^{17th} day of April, 2018, at ^{1:45 p}.m.

 
s/ Sandra J. Feuerstein

UNITED STATES DISTRICT JUDGE