

LOGGED

1 BERNARD JOHN BARRETT, State Bar No. 265869
 2 LOUIS V. TRAEGER, State Bar No. 288714
 3 EDWIN J. YOSHIMURA, State Bar No. 089948
 4 COMMODITY FUTURES TRADING COMMISSION
 5 10900 Wilshire Boulevard, Suite 400
 6 Los Angeles, California 90024
 7 Telephone (310) 443-4700
 8 Facsimile (310) 443-4745

FILED
 CLERK, U.S. DISTRICT COURT
 FEB 19 2002
 CENTRAL DISTRICT OF CALIFORNIA
 DEPUTY

Attorneys for Plaintiff
 Commodity Futures Trading Commission

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

COMMODITY FUTURES TRADING)
 COMMISSION,)
)
 Plaintiff,)
 vs.)
)
 REGO GAINER FINANCIAL, INC., a)
 California corporation; REGO)
 GAINER, INC., a California)
 corporation, and KWOK LUN LAM,)
 an individual)
)
 Defendants.)

Case No. 02-1417 DT(MC_x)

[PROPOSED] STATUTORY
 RESTRAINING ORDER, ORDER
 PERMITTING EXPEDITED
 DISCOVERY AND ORDER TO SHOW
 CAUSE RE: PRELIMINARY
 INJUNCTION

18
 19 This matter came on for hearing on FEB 19, 2002 on the
 20 Ex Parte Application of Plaintiff Commodity Futures Trading
 21 Commission (the "Commission") for a: (1) Statutory Restraining
 22 Order; (2) Order to Show Cause re: Preliminary Injunction; and (3)
 23 Order Permitting Immediate Expedited Discovery (the
 24 "Application"). The Court, having considered the Commission's
 25 Complaint, Application, Memorandum of Points and Authorities,
 26 Declarations and Exhibits, other materials, all other evidence
 27 presented by all parties filed herein, and having heard the
 28 arguments of counsel, finds that:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1. This Court has jurisdiction over the parties and over the subject matter of this action pursuant to Sections 2(c)(2)(B)(i) and (ii) and 6c of the Commodity Exchange Act, 7 U.S.C. §§ 2(2001) and 7 U.S.C. § 13a-1 (2001).

2. Venue lies properly within this District pursuant to Sections 6c(e) of the Commodity Exchange Act, 7 U.S.C. § 13a-1(e) (2001).

3. There is good cause to believe that Defendants have engaged, are engaging and are about to engage in acts and practices constituting violations of the Commodity Exchange Act, 7 U.S.C. §§ 1, et seq. (2001).

4. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for investors in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by Defendants Rego Gainer Financial, Inc. and Rego Gainer, Inc. of assets or records unless Defendants are immediately restrained and enjoined by Order of this Court.

5. Good cause exists for the freezing of the assets of Defendants Rego Gainer Financial, Inc. and Rego Gainer, Inc., and for entry of an order prohibiting Defendants from destroying records and denying agents of the Commission access to inspect and copy records.

6. Good cause exists to permit discovery before the early meeting of counsel pursuant to Rule 26(d) of the Federal Rules of Civil Procedure.

7. Pursuant to Rule 30(a)(2) of the Federal Rules of Civil

1 Procedure, immediate depositions are consistent with the
2 principles of Rule 26(b)(2) of the Federal Rules of Civil
3 Procedure.

4 8. Weighing the equities and considering the Commission's
5 likelihood of success in its claims for relief, the issuance of a
6 statutory restraining order is in the public interest.

7 DEFINITIONS

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

10 9. "Assets" means any legal or equitable interest in,
11 right to, or claim to, any real or personal property, including
12 but not limited to: chattels, goods, instruments, equipment,
13 fixtures, general intangibles, effects, leaseholds, mail or other
14 deliveries, inventory, checks, notes, accounts including bank
15 accounts and accounts at financial institutions, credits,
16 receivables, lines of credit, contracts including spot and
17 futures contracts, insurance policies, and all cash, wherever
18 located.

19 10. The term "document" is synonymous in meaning and equal
20 in scope to the usage of the term in Federal Rule of Civil
21 Procedure 34(a), and includes: writings, drawings, graphs,
22 charts, photographs, audio and video recordings, computer
23 records, and other data compilations from which information can
24 be obtained and translated, if necessary, through detection
25 devices into reasonably usable form. A draft or non-identical
26 copy is a separate document within the meaning of the term.

27 11. "Defendants" means Rego Gainer Financial, Inc., Rego
28 Gainer, Inc., Kwok Lun Lam, any person insofar as he or she is

1 acting in the capacity of an officer, agent, servant, employee or
2 attorney of Rego Gainer Financial, Inc., Rego Gainer, Inc., or
3 Kwok Lun Lam, and any person who receives actual notice of this
4 Order by personal service or otherwise, including facsimile,
5 insofar as he or she is acting in concert or participation with
6 Rego Gainer Financial, Inc., Rego Gainer, Inc., or Kwok Lun Lam.

7 I.

8 ORDER AGAINST TRANSFER, DISSIPATION, AND DISPOSAL OF ASSETS

9 IT IS HEREBY ORDERED that:

10 12. Defendants and their agents, servants, employees,
11 attorneys, and persons in active concert or participation with any
12 of them who receive actual notice of this Order by personal
13 service or otherwise, are enjoined and restrained from directly or
14 indirectly dissipating, withdrawing, transferring, removing,
15 selling, alienating, liquidating, encumbering, pledging, leasing,
16 loaning, assigning, converting, concealing or disposing of funds,
17 securities, assets or other property either now or hereafter
18 owned, controlled, or held (whether legally, equitably or
19 otherwise) by or in the name of Defendants Rego Gainer Financial,
20 Inc. and Rego Gainer, Inc., wherever such funds, assets or other
21 property may be situated, including outside the United States.

22 The assets affected by this paragraph shall include both existing
23 assets and assets acquired after the effective date of this Order.

24 13. Any financial or brokerage institution, or other person
25 or entity located within the territorial jurisdiction of the
26 United States courts that is holding any funds or assets in the
27 name of, otherwise belonging to, or under the control of
28 Defendants Rego Gainer Financial, Inc. and Rego Gainer, Inc.,

1 which receives actual notice of this Order by personal service, or
2 otherwise, including facsimile transmission, shall hold and retain
3 within its control and prohibit the withdrawal, removal, transfer
4 or other disposal of any such funds or other assets. The account
5 of Rego Gainer Financial, Inc. at Preferred Bank, account no. 002-
6 617765 and the account of Rego Gainer Financial, Inc. at Bank of
7 America, account no. 1073404900, are specifically frozen until
8 further order of this court.

9 14. All Defendants and their agents, servants, employees,
10 attorneys and persons in active concert and participation with
11 any of them who receive actual notice of this Order by personal
12 service or otherwise, are enjoined and restrained from directly
13 or indirectly dissipating, withdrawing, transferring, removing,
14 selling, alienating, liquidating, encumbering, pledging, leasing,
15 loaning, assigning, converting, concealing or disposing of the
16 proceeds of the business of Rego Gainer, Inc. or Rego Gainer
17 Financial, Inc., wherever such proceeds may be situated,
18 including outside the United States. The assets affected by this
19 paragraph shall include both existing assets and assets acquired
20 after the effective date of this Order.

21 II.

22 ORDER PROHIBITING DESTRUCTION OF BOOKS AND RECORDS

23 IT IS FURTHER ORDERED that:

24 15. Defendants and their agents, servants, employees,
25 attorneys, and persons in active concert or participation with
26 any of them who receive actual notice of this Order by personal
27 service or otherwise, including facsimile transmission, are
28 enjoined from directly or indirectly destroying, mutilating,

1 concealing, altering, or disposing of any of the books, records,
2 documents, correspondence, brochures, manuals, electronically
3 stored data, tape recordings, or other property, wherever such
4 materials may be situated, that refer or relate in any manner to
5 any transaction or matter described in the Complaint in this
6 case.

7 III.

8 ACCESS TO AND INSPECTION OF BOOKS AND RECORDS

9 IT IS FURTHER ORDERED that:

10 16. Representatives of the Commission shall have immediate
11 access to the books, records, electronically stored data and other
12 documents of the Defendants, wherever such materials may be
13 situated, for purposes of inspecting and copying such materials.

14 17. Defendants and their agents, servants, employees,
15 attorneys, and persons in active concert or participation with any
16 of them who receive actual notice of this Order by personal
17 service or otherwise, including facsimile transmission, shall
18 cooperate fully with the Commission to locate and provide to
19 representatives of the Commission all books and records of
20 Defendants, wherever such books and records may be situated.

21 IV.

22 BOND NOT REQUIRED OF PLAINTIFF

23 IT IS FURTHER ORDERED that:

24 18. Plaintiff Commission is an agency of the United States
25 of America and, accordingly, no bond need be posted by the
26 Commission.
27
28

V.

ORDER TO SHOW CAUSE

IT IS FURTHER ORDERED that:

19. Defendants Rego Gainer Financial, Inc., Rego Gainer, Inc., and Kwok Lun Lam shall show cause, if there be any, at 4:00 ~~a~~p.m. on MARCH 5, 2002 before the Honorable D. TEVRIZIAN, Courtroom 800, United States District Court, Central District of California, located at 255 E. TEMPE ^{ST.} Los Angeles, California 90012 why an Order for Preliminary Injunction should not be granted to prohibit further violations of the Commodity Exchange Act and why the other relief requested should not be granted pending trial on the merits of this action.

20. Any papers in opposition to Plaintiff's Motion for a Preliminary Injunction shall be filed on or before FEB 27, 2002 and served on Plaintiff no later than 5:00 p.m. FEB 27 2002.

21. Service of a copy of this Order upon Defendants' in accordance with Rule 4 of the Federal Rules of Civil Procedure, or in any manner provided by law, on or before 4:00 ~~a~~p.m. on FEB 21, 2002 shall be deemed good and sufficient service and notice thereof.

VI.

ORDER PERMITTING EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that:

22. The prohibition upon discovery before the early meeting of counsel is removed pursuant to Rule 26(d) of the Federal Rules of Civil Procedure.

23. The prohibition upon the immediate commencement of depositions is removed pursuant to Rule 30(a)(2)(C) of the

1 Federal Rules of Civil Procedure.

2 24. The parties may proceed to take the oral deposition of
3 any person upon three calendar days actual notice if the notice
4 is served upon the parties personally or by telecopier to the
5 party's last known business telecopier number.

6 25. The parties may also commence discovering documents
7 from third parties under normal discovery procedures.

8

9 IT IS SO ORDERED.

10

11 Dated: FEB. 17 2002

DICKRAN TEVRIZIAN
UNITED STATES DISTRICT JUDGE

12

13 Presented by:

14

15

Edwin J. Yoshimura
Edwin J. Yoshimura
Attorney for Plaintiff
Commodity Futures Trading
Commission

16

17

18

19

20

21

22

23

24

25

26

27

28