

appears that Defendants have violated Sections 4b(a)(1)(A) and (C), 4b(a)(1)(B), 4o(1), 4m(1), and 4k(2) of the Act, 7 U.S.C. §§ 6b(a)(1)(A), (C), 6(b)(1)(1)(B), 6o(1), 6m(1), 6(k)(2) (2012).

4. It further appears that that there is good cause to believe immediate and irreparable harm to the Court's ability to grant effective final relief to the commodity pool participants in the form of monetary redress will occur from the withdrawal, transfer, removal, or other disposition of funds, assets or other property or destruction, alteration or disposition of books and records and other documents ("records") by Defendants unless Defendants are immediately restrained and enjoined by order of this Court.

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

6. There is also good cause for entry of an order prohibiting Defendants 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.

7. Absent the entry of this statutory restraining order, the Defendant(s) are likely to transfer or dissipate assets or destroy or alter business records.

8. This is a proper case for granting a restraining order to preserve the status quo, protect public customers from loss and damage, and enable the Commission to fulfill its statutory duties, therefore the Court orders as follows:

DEFINITIONS

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

9. 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.

10. 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 Defendant(s) actual or constructive possession, including but not limited to: (i) all such items within Defendant(s)’ custody or control of any of present agents, employers, employees, partners, and (ii) all items which Defendant(s) 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.

11. “Defendants” refers to Richard D. Carter, Mark R. Slobodnik and Blue Guru Trading, LLC.

RELIEF GRANTED

IT IS FURTHER ORDERED THAT:

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

12. The Defendants 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' funds, assets or other property held outside the United States.

13. 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, except as otherwise ordered by the Court.

14. The funds, assets or other property affected by this Order shall include existing funds, assets or other property, or 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

15. The Defendants 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 Defendant.

16. 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, 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 or others. To facilitate meaningful inspection and review, Defendants 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. After any such offsite copying, Plaintiff shall promptly return the original documents and devices upon which electronic information is stored.

17. When inspecting records that are subject to this Order, including those contained on computer(s) and/or other electronic device(s), the Commission should undertake reasonable measures to prevent review of the Defendants' 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.

18. Moreover, Defendants 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 claimed 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' from full and immediate compliance with this Court's Order permitting Plaintiff to inspect the books and records which relate to Defendants' business activities and their business and personal finances.

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

19. 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 Defendants, shall not, in active concert or participation with Defendants:

- a. Permit Defendants, or other persons to withdraw, transfer, remove, dissipate, or otherwise dispose of Defendants' funds, assets, or other property, except as directed by further order of the Court; and
- b. Permit Defendants or any other persons to access to any safe deposit box that is:
 - (a) owned, controlled, managed or held by Defendants (as defined) either individually or jointly, or managed or held on behalf, or for the benefit, of Defendants; or
 - (b) otherwise subject to access by Defendants.

20. 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, 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 Defendants.

21. 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 Defendants, or has held, controlled, or maintained custody of any such account or asset of any Defendants at any time since January 1, 2014 shall not, in active concert or participation with Defendants, deny a request by the Commission to inspect all records pertaining to every account or asset owned, controlled, managed or held by Defendants, or managed or held on behalf, or for the benefit, of Defendants, 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. Persons Bound By this Order

22. 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, or is in active concert or participation with the Defendants.

V. Bond Not Required of Plaintiff

23. 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.

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

24. 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 that may be subject to any provision of this Order.

25. Susan Gradman, Joseph Patrick, Brigitte Weyls and Ray Lavko and representatives of the Federal Bureau of Investigation and the United States Marshal Service are specially appointed by the Court to effect service.

26. The United States Marshal's Service is authorized to: a) accompany and assist the Commission representatives in the service and execution of the Summons, Complaint and this Order on the Defendants, and b) help maintain lawful order while Commission representatives inspect records as provided in this Order.

VII. Service on the Commission

27. The Defendants shall comply with all electronic filing rules and requirements of the U.S. District Court of the Northern District of Illinois, Eastern Division, and shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Susan Gradman, Chief 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.

VIII. Further Proceedings

28. Plaintiff's Motion for a Preliminary Injunction is set for hearing on January 26, 2018, at 10:00 a.m., before the Honorable Manish S. Shah, Courtroom 1719, at the United States Courthouse for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Illinois 60604. Should any party wish to file a memorandum of law or other papers concerning the issuance of a preliminary injunction against the Defendants, such materials shall be filed, served and received by all parties at least two (2) days before the hearing ordered above.

IX. Force and Effect

29. This Order shall remain in full force and effect until fourteen days from the effective date of this 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 **Chicago, Illinois** on this **12th** day of **January** 2018, at 2:30 p.m.

A handwritten signature in black ink, appearing to read "Manish S. Shah", written over a horizontal line.

Manish S. Shah
UNITED STATES DISTRICT JUDGE