

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

HENDRIX A. VAN BEUNINGEN
and DEBRINK TRADING FUND
I, LLC,

Defendants.

CIVIL ACTION FILE
NUMBER 1:16-cv-978-TCB

FILED UNDER SEAL

ORDER

This case comes before the Court on Plaintiff's motion [4] for an ex parte restraining order pursuant to section 6(c) of the Commodity Exchange Act, 7 U.S.C. § 13a-1(a). For the reasons set forth below, the Court will grant the motion. The Court also grants Plaintiff's motion for leave to file excess pages [5] *nunc pro tunc* to March 28, 2016, when the brief that is the subject of the motion was filed.

I. Background

Plaintiff, the U.S. Commodity Futures Trading Commission ("CFTC" or the "Commission"), is a federal regulatory agency charged

with administering and enforcing the Commodity Exchange Act and the regulations promulgated thereunder. It filed this lawsuit against Defendants Hendrick A. Van Beuningen and DeBrink Trading Fund I, LLC seeking to enjoin and recover civil monetary penalties for violations of the Act that it claims have occurred since at least January 2014.

According to the complaint, Van Beuningen is the sole member and manager of DeBrink, an unregistered commodity pool operator. The Commission avers that Defendants fraudulently solicited and accepted more than half a million dollars from several individuals for the purported purpose of pooling funds into DeBrink to trade futures at a registered futures commission merchant ("FCM"). However, Defendants transferred less than half of the pool participants' money into an FCM trading account and misappropriated at least some of the remaining funds to personal, corporate, or other unauthorized uses. The pool funds that did make it into the FCM trading account were quickly lost, as Defendants' trading at the FCM proved unprofitable. Despite those losses, Defendants fraudulently misled pool participants into believing

their trading efforts were more successful than they were and the pool was more profitable than it was. When the FCM discovered an inconsistency between the pool's trading results and Defendants' representations regarding the pool's success, Defendants created and provided to the FCM two fabricated trading account statements purporting to show that the successes came from an account at another institution. The FCM discovered the fabrication and froze the remaining pool funds in DeBrink's trading account, but the Commission avers that Defendants have not informed pool participants of this fact. In addition, it appears that Defendants have failed to respond to CFTC subpoenas seeking further information regarding their actions.

Based on these events, the Commission alleges that Defendants have violated, are violating, and are about to engage in violations of 7 U.S.C. §§ 6b(a)(1)(A)–(C), 6k(2), 6m(1), 6o(1), and 9(1), as well as 17 C.F.R. §§ 3.12(a), 4.20(a)–(c), and 180.1(a). It has moved for the entry of an ex parte statutory restraining order prohibiting the dissipation of Defendants' assets and the destruction of Defendants' books and records.

II. Analysis

A. Legal Standard

The Act authorizes the CFTC to bring an action whenever it appears “that any registered entity or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of [the Act] or any rule, regulation, or order thereunder.” 7 U.S.C. § 13a-1(a). The Act expressly authorizes the issuance of a restraining order or permanent or temporary injunction “[u]pon a proper showing,” § 13a-1(b), and although it limits the availability of ex parte injunctive relief, such relief is available to enjoin, among other things, the destruction of books and records or the transfer or dissipation of funds and assets, § 13a-1(a). That is the only relief sought in the Commission’s motion in this case.

Restraining orders and preliminary injunctions under the Commodity Exchange Act are subject to a different legal framework than Rule 65 injunctions, as the Eleventh Circuit has explained:

A court deciding whether to issue a preliminary injunction under the Act does not employ the familiar preliminary injunction formula, which requires that a plaintiff clearly establish a substantial likelihood of success on the merits

and the likelihood of irreparable injury, among other things. Rather, the standard is lower. The Act enables district courts to issue permanent or temporary injunctions “upon a proper showing” and without bond. A prima facie case of illegality is a “proper showing.” Binding precedent in this circuit suggests, and other circuits have held, that where the Commission seeks to enjoin future violations, it must also show a reasonable likelihood of future violations in addition to a prima facie case of illegality.

CFTC v. Hunter Wise Commodities, LLC, 749 F.3d 967, 974 (11th Cir. 2014) (internal punctuation and citations omitted). Consequently, this Court’s inquiry is focused on whether the Commission has “demonstrate[d] a prima facie case that a violation has occurred and that there is a reasonable likelihood of a future violation.” *CFTC v. Sterling Trading Grp., Inc.*, 605 F. Supp. 2d 1245, 1290 (S.D. Fla. 2009).

B. Analysis

Having carefully examined the evidence submitted in support of the motion, the Court agrees that the CFTC has demonstrated a prima facie case that violations of the Act have occurred. The Court will briefly discuss the various statutory and regulatory provisions under which the Commission brings claims.

1. 7 U.S.C. § 6o(1)

Section 6o(1) prohibits commodity pool operators and associated persons from using “the mails or any means or instrumentality of interstate commerce” to (A) “employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant” or (B) “engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.” For purposes of this subsection, the Court finds that the evidence before it shows that DeBrink is a commodity pool operator (“CPO”), as defined in § 1a(10),¹ and Van Beuningen is an associated person of a CPO, as defined in 17 C.F.R. § 1.3(aa). Furthermore, the evidence regarding Defendants’ fabrication of trading account statements, misrepresentations regarding the pool’s profitability, and other efforts to hide trading losses constitute a prima facie showing that Defendants have engaged in a “device, scheme, or artifice to defraud” the pool participants and/or a “transaction, practice,

¹ Although DeBrink did not register as a CPO with the Commission, 7 U.S.C. § 6o(1)’s applicability is based on the nature of the business activities, not registration as a CPO. *CFTC v. Skorupskas*, 605 F. Supp. 923, 932 (E.D. Mich. 1985).

or course of business which operate[d] as a fraud or deceit” upon pool participants.

2. 7 U.S.C. § 6b(a)(1)

The CFTC has also adequately shown that Defendants have violated and are continuing to violate § 6b(a)(1)(A), (B), and (C), which provide:

It shall be unlawful—

(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person . . .

(A) to cheat or defraud or attempt to cheat or defraud the other person;

(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record; [or]

(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for . . . the other person.

This provision “is not restricted in its application to instances of fraud or deceit ‘in’ orders to make or the making of contracts. Rather, [it] encompasses conduct ‘in or in connection with’ futures transactions. The plain meaning of such broad language cannot be ignored.” *Hirk v. Agri-Research Council, Inc.*, 561 F.2d 96, 103-04 (7th Cir. 1977).

“In order to establish liability for fraud [under § 6b(a)], CFTC [has] the burden of proving three elements: (1) the making of a misrepresentation, misleading statement, or a deceptive omission; (2) scienter; and (3) materiality.” *CFTC v. R.J. Fitzgerald & Co.*, 310 F.3d 1321, 1328 (11th Cir. 2002). The evidence adduced by the CFTC shows that Defendants made misrepresentations, misleading statements, and/or deceptive omissions regarding the profitability of the pool. Such statements go directly to factors on which a reasonable investor would consider when deciding whether to invest and are therefore material for purposes of § 6b. *Id.* (a statement is material if “a reasonable investor would consider it important in deciding whether to make an investment”); *CFTC v. Commonwealth Fin. Grp., Inc.*, 874 F. Supp. 1345, 1353-54 (S.D. Fla. 1994) (statements regarding the trading

experience and past success of the defendant and its employees were material); *CFTC v. Rosenberg*, 85 F. Supp. 2d 424, 447 (D.N.J. 2000) (statements “report[ing] the existence of trading profits when no profits had been earned and fail[ing] to report” losses were material misrepresentations).

To establish the requisite scienter, “the Commission only need[s] to show that [Defendants’ conduct] was intentional as opposed to accidental. Proof of an evil motive is unnecessary.” *Lawrence v. CFTC*, 759 F.2d 767, 773 (9th Cir. 1985). Indeed, in this circuit scienter may be established by showing only that the conduct at issue “represents an extreme departure from the standards of ordinary care.” *R.J. Fitzgerald*, 310 F.3d at 1328. The Court finds that the evidence before it—including but not limited to the evidence suggesting that Van Beuningen fabricated trading account statements in an attempt to conceal the misrepresentations regarding the pool’s success and profitability—suffices to meet this burden at this stage in the proceedings. *See* § 6b(a)(1)(B) (prohibiting the willful making of “any false report or statement”); *CFTC v. Weinberg*, 287 F. Supp. 2d 1100,

1106-07 (C.D. Cal. 2003) (the defendant violated § 6b(a) by making false and misleading representations regarding the location of trading accounts); *Skorupskas*, 605 F. Supp. at 932-33 (the defendant violated § 6b(a) by issuing false monthly statements purporting to show each investor's account balance and indicating only large profits when the defendant in fact suffered losses).

Finally, the Commission has made an adequate showing that Defendants misappropriated a substantial portion of the pool participants' funds, which has repeatedly held to constitute fraudulent conduct in violation of § 6b(a). *See, e.g., CFTC v. States*, 673 F. Supp. 2d 1320, 1326 (S.D. Fla. 2009) (concluding that defendant violated § 6b(a) by, among other actions, "misappropriating customer funds"); *CFTC v. Morse*, 762 F.2d 60, 62 (8th Cir. 1985) (the defendant's "personal use" of investments "clearly demonstrate[d]" a violation of § 6b where such use was unauthorized and contrary to the instructions of his customers without regard to the defendant's motives); *CFTC v. Noble Wealth Data Info. Servs., Inc.*, 90 F. Supp. 2d 676, 687 (D. Md. 2000) ("misappropriation of funds constitutes 'willful and blatant' fraudulent

activity violative of' § 6b(a)), *vacated in part on other grounds sub nom.*

CFTC v. Baragosh, 278 F.3d 319 (4th Cir. 2002).

3. 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1

Under 7 U.S.C. § 9, as interpreted by Regulation 180.1, it is unlawful for any person, directly or indirectly, in connection with any . . . contract of sale of any commodity in interstate commerce or contract for future delivery on or subject to the rules of any registered entity, to intentionally or recklessly:

- (1) Use or employ . . . any manipulative device, scheme, or artifice to defraud;
- (2) Make, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading; [or]
- (3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person.

17 C.F.R. § 180.1(a) (internal punctuation omitted). “Given the similarities between” this provision of the Commodity Exchange Act and “section 10(b) [of the Securities Exchange Act of 1934], the Commission deems it appropriate and in the public interest to model final Rule 180.1 on SEC Rule 10b-5.” Prohibition on the Employment, or Attempted Employment, of Manipulative and Deceptive Devices and

Prohibition on Price Manipulation, 76 Fed. Reg. 41,398, 41,399 (July 14, 2011). “To account for the differences between the securities markets and the derivatives markets, the Commission will be guided, but not controlled, by the substantial body of judicial precedent applying the comparable language of SEC Rule 10b-5.” *Id.* Misappropriation of investor funds to personal uses, coupled with the use of fictitious account statements, violates Rule 10b-5. *SEC v. Lawbaugh*, 359 F. Supp. 2d 418, 422 (D. Md. 2005). The Court finds for purposes of the Commission’s motion, it has made a “proper showing” with respect to its claims under § 9 and Regulation 180.1.

4. Registration Requirements

The Act imposes various registration requirements on commodity pool operators (“CPO”) and associated persons. Specifically, 7 U.S.C. § 6m(1) 7 U.S.C. § 6m(1) provides that it is unlawful for any CPO, “unless registered under this chapter” as a CPO, to make use of the mails or any means or instrumentality of interstate commerce in connection with its business as a CPO, and 7 U.S.C. § 6k(2) and 17 C.F.R. § 3.12(a) provide that it is unlawful for any person to be

associated with a CPO in any capacity that involves the solicitation of funds, securities, or property for a participation in a commodity pool “unless such person is registered with the Commission under this chapter.”

Based on the evidence before it at this early stage in the litigation, the Court finds that the Commission has made a prima facie showing that (1) DeBrink has violated and is continuing to violate § 6m(1) by operating but not registering as a CPO and utilizing the mails and other means and instrumentalities of interstate commerce to do so, and (2) Van Beuningen has violated and is violating § 6k(2) and Regulation 3.12(a) by acting but not registering as an associated person of DeBrink by soliciting funds from pool participants and making investment decisions on behalf of the pool.

5. 17 C.F.R. § 4.20(a)–(c)

Finally, under 17 C.F.R. § 4.20, a CPO must (a) operate its pool as a distinct legal entity from that of the pool operator, (b) receive funds from pool participants in the pool’s name, and (c) not commingle the property of any pool that it operates with the property of any other

person. The CFTC is authorized under this Regulation to exempt a CPO from the first requirement if certain conditions are satisfied. In its brief, the Commission argues that DeBrink could have qualified for an exemption but the exemption was denied “because DeBrink and the Pool were never two separately cognizable legal entities.” [4-1], p.32. However, the Court finds no evidentiary support for this assertion in the record; indeed, apart from this statement by counsel, the Court finds nothing in the evidence attached to the motion that addresses whether Defendants attempted to claim or otherwise qualified for any exemption.

But this failure is not fatal to the Commission’s motion. As set forth above, the Court finds that the CFTC has made a prima facie showing of illegality. It has further shown a reasonable likelihood of continuing violations in the future. In addition, the Court finds that prior notice to Defendants of an asset freeze is likely to result in dissipation of Defendants’ assets, making it difficult for this Court ultimately to grant effective relief. Similarly, given the ease of destroying books, records, and other documents, an order prohibiting

the destruction of relevant documents and granting the Commission immediate access to inspect and copy those documents will increase the likelihood of a meaningful opportunity for the Commission, and ultimately this Court, to resolve the claims in this litigation on the merits.

Accordingly, the Commission has met the requirements for an ex parte statutory restraining order prohibiting the dissipation of Defendants' assets and the destruction of Defendants' books and records. *Hunter Wise Commodities*, 749 F.3d at 974. The Court will therefore grant the motion.

III. Terms of the Restraining Order

The Court finds good cause to believe that Defendants have engaged, are engaging, and/or may continue to engage in acts and practices constituting violations of the Commodity Exchange Act and regulations promulgated thereunder. Furthermore, the Court is of the opinion that immediate and irreparable damage to the Court's ability to grant effective final sanctions in the form of monetary or other redress will occur from the sale, transfer, assignment, or other disposition by

Defendants of assets or documents unless Defendants are immediately restrained and enjoined by Order of the Court. The Court therefore enters an order freezing the assets owned, controlled, managed, or held by, on behalf of, or for the benefit of Defendants and prohibiting Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendants, from destroying relevant books, records, and other documents and/or denying agents of the Commission immediate and complete access to Defendants' books and records for inspection and copying, as follows:

A. Definitions

For purposes of this Order, the following definitions apply:

1. 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 a reasonably

usable form. A draft or non-identical copy is a separate document within the meaning of the term.

2. The term “asset” means any legal or equitable interest in, right to, or claim to any real or personal property, whether individually or jointly or directly or indirectly controlled, and wherever located (including within or outside the United States), 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, regardless of when the asset is or was obtained.

3. “Defendants” shall mean and refer to not only Hendrik A. Van Beuningen and DeBrink Trading Fund I, LLC, but also to their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with any of the Defendants, including any successor thereof, and any d/b/a, successor, affiliate, subsidiary, or other

entity owned, controlled, managed, or held by, on behalf of, or for the benefit of any of the Defendants.

B. Relief Granted

1. Assets

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

It is hereby ordered that Defendants and any other persons 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 Defendants' assets, wherever located, including assets held outside the United States, unless otherwise ordered by the Court.

b. Directives to Financial Institutions and Others

It is further ordered 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 account or other of Defendants' assets at any time since January 1, 2014, shall:

(i) Immediately upon receipt of a copy of this Order prohibit Defendants and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of any of Defendants' assets, except as directed by further order of the Court;

(ii) Immediately upon receipt of a copy of this Order deny Defendants 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 Defendants, either individually or jointly, whether in the name, alias, or fictitious "doing business as" name of; or (b) otherwise subject to access by Defendants, except as directed by further order of the Court;

(iii) Within five (5) business days of receiving a copy of this Order provide counsel for the Commission 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

Defendants, 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 Defendants, either individually or jointly, or is otherwise subject to access by Defendants; and

(iv) Upon request by the Commission, within ten (10) business days or such longer period as specified by the Commission, provide the Commission with copies of all records or other documentation pertaining to any 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.

c. Injunction Against Interference with Assets

Absent express permission and leave by this Court, all persons, including but not limited to Defendants and all trust beneficiaries, note holders, creditors, claimants, lessors, and all other persons or entities seeking relief of any kind from Defendants' assets (other than the present action by the Commission and/or any civil or criminal action brought by another federal or state agency), in law or in equity, and all persons acting on behalf of any such 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 restrained and enjoined from doing anything, directly or indirectly, to interfere with Defendants' 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 affect Defendants' assets, specifically including any proceeding initiated pursuant to the U. S. Bankruptcy Code, except with prior permission of

this Court. Moreover, any such actions that are so authorized shall be filed in this Court.

C. Books, Records, and Other Documents

1. Maintenance of Business Records

Defendants and any other persons who receive actual notice of this Order, by personal service or otherwise, are hereby restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in any manner, directly or indirectly, any books, records, or other documents, wherever such materials may be situated, that refer or relate in any manner to the allegations in the Complaint or to Defendants' assets.

2. Inspection and Copying of Books and Records

Representatives of the Commission (accompanied by representatives of other international, federal, or state authorities or the National Futures Association, if the Commission so desires) shall be allowed immediate and continued access, until further Order of this Court, to inspect the books, records, and other documents of Defendants and their agents, including but not limited to electronically stored

information, tape recordings, and computer discs, that refer or relate in any manner to the allegations in the Complaint or to Defendants' assets, wherever they may be situated and whether such materials are in the possession of Defendants, or others, and to copy said books, records, and other documents, either on or off the premises where they may be situated.

Within five (5) business days following the service of this Order, Defendants shall provide the Commission immediate access to all records of Defendants 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 and submitting same to the Commission.

D. Expedited Discovery

In advance of the preliminary injunction hearing referenced below, the parties may conduct expedited discovery, removing the prohibition upon discovery before the early meeting of counsel pursuant to Federal Rule of Civil Procedure 26(f), in accordance with Rule 26(d). Depositions of parties and non-parties may be taken subject to two

calendar days' notice pursuant to Rules 30(a) and 45, that notice may be given personally, by facsimile, or by electronic mail, and, if necessary, any deposition may last more than seven hours.

The Commission may conduct expedited discovery to enable the Commission to fulfill its statutory duties and protect entities 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 Defendants' other victims, identify Defendants' assets, and clarify the sources of various funds.

E. Required Accounting

Defendants shall prepare, sign and submit to the Commission, by April 29, 2016, a complete and accurate accounting of Defendants' assets as of the date of this Order. Such accounting shall include, without limitation, the identification of:

1. All banks, futures commissions merchants, financial or brokerage institutions, including account numbers, which hold funds, securities, commodity interests, assets, liabilities, and other property

owned or controlled (legally, equitably, or otherwise) directly or indirectly by Defendants, whether individually or jointly;

2. All funds, securities, commodity interests, assets, liabilities, and other property owned or controlled (legally, equitably, or otherwise) directly or indirectly by Defendants, whether individually or jointly; and

3. The names and last known addresses of each bailee, debtor, or other person or entity currently holding any funds, securities, commodity interests, assets or other property owned or controlled (legally, equitably or otherwise) by Defendants, whether individually or jointly.

F. Bond Not Required of Plaintiff

As an agency of the United States of America and pursuant to 7 U.S.C. § 13a-1(b) (2012), Plaintiff Commission need not post a bond.

G. Order to Show Cause and Briefing Schedule

Defendants shall appear before this Court on Monday, April 25, 2016, at 2:00 p.m. in Courtroom 2106 of the U. S. Courthouse for the Northern District of Georgia, 75 Ted Turner Drive, Atlanta, GA 30303,

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 Regulations and why the other relief requested should not be granted pending trial on the merits of this action.

Should any party wish to file a memorandum of law or other papers in opposition to Plaintiff's Motion for a Preliminary Injunction, all papers shall be filed on or before Friday, April 15, 2016, with concurrent electronic service on the Commission's counsel of record and served on the Commission's Kansas City, Missouri office to the attention of the Commission's counsel in this case no later than 24 hours after filing with the Court. Any reply papers shall be filed with the Court and delivered to opposing counsel no later than 5:00 p.m. on Thursday, April 21, 2016. Service of all papers shall be by electronic mail, facsimile, overnight delivery, or personal service.

H. Service

It is further ordered that copies of this Order may be served by any means, including facsimile and e-mail transmission, upon any entity or person that may have possession, custody, or control of any of

Defendants' documents or any of Defendants' assets that may be subject to any provision of this Order, and, additionally, that Charles Marvine, Jeff Le Riche, Jennifer Chapin, Lauren Fulks, Joyce Brandt or other representatives of the Commission, representative(s) of the U.S. Marshals Service, and representatives of international state or local law enforcement agencies in the jurisdictions within which Defendants reside or may be located 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 Fed. R. Civ. P. 4, and service on corporate entities may be effected by serving the Summons, Complaint, or other process via overnight delivery to the registered agent of said corporate entities.

I. Force and Effect

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

IV. Conclusion

For the foregoing reasons, Plaintiff's motion for a statutory temporary restraining order [4] is granted on the terms set forth above. Plaintiff's motion for leave to file excess pages [5] is granted *nunc pro tunc* to March 28, 2016.

IT IS SO ORDERED this 29th day of March, 2016.



Timothy C. Batten, Sr.
United States District Judge