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9 UNITED STATES DISTRICT COURT
FOR THE NOTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 UNITED STATES COMMODITY
13 FUTURES TRADING COMMISSION,
14

Civil Action No.

15 Plaintiff,
16

UNDER SEAL

17 v.
18

18 HIGHLANDS CAPITAL MANAGEMENT,
19 L.P., a California limited
20 partnership; and GLENN KANE
21 JACKSON, an individual,
22

Hearing Date:
June 23,2010
Hearing Time:
11:00 AM
Courtroom 1

22 Defendants.
23

24 ~~(PROPOSED)~~ ORDER GRANTING PLAINTIFF'S *EX PARTE* EMERGENCY
25 MOTION FOR STATUTORY RESTRAINING ORDER,
26 ORDER TO SHOW CAUSE REGARDING FURTHER RELIEF
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1 This matter came before the Court for hearing on June 17,
2 2010, on plaintiff Commodity Futures Trading Commission's
3 ("CFTC" or "Plaintiff") Ex Parte Emergency Motion For Statutory
4 Restraining Order, Order to Show Cause Regarding Preliminary
5 Injunction, Preliminary Injunction, And Other Equitable Relief
6 ("Motion"). The Court, having considered the Motion, the
7 memorandum in support thereof, and all other evidence presented
8 by Plaintiff, and having heard the arguments of Plaintiff's
9 counsel, finds that:
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11 1. This Court has jurisdiction over the parties and over
12 the subject matter of this action pursuant to Section 6c of the
13 Commodity Exchange Act ("Act"), 7 U.S.C. § 13a-1 (2006), and
14 Section 2(c)(2) of the Act, as amended by the Food,
15 Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title
16 XIII (the CFTC Reauthorization Act of 2008 ("CRA")), §§ 13101-
17 13204, 122 Stat. 1651 (effective June 18, 2008), to be codified
18 at 7 U.S.C. § 2(c)(2).
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21 2. Venue lies properly within this District pursuant to
22 Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e).
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24 3. There is good cause to believe that Defendant
25 Highlands Capital Management, L.P. ("Highlands") and its
26 principal and control person, Glenn Kane Jackson ("Jackson")
27 (collectively "Defendants"), have engaged, are engaging, and are
28 about to engage in acts and practices constituting violations of

1 the Act, as amended by the CRA, to be codified at 7 U.S.C. §§ 1,
2 *et seq.*

3 4. There is good cause to believe that immediate and
4 irreparable damage to the Court's ability to grant effective
5 final relief for customers in the form of monetary redress will
6 occur from the sale, transfer, assignment, or other disposition
7 by Defendants of assets or records unless Defendants are
8 immediately restrained and enjoined by Order of the Court.
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10 5. Good cause exists for the freezing of assets owned,
11 controlled, managed, or held by, on behalf of, or for the
12 benefit of Defendants (hereinafter, "Defendants' Assets").
13

14 6. Good cause exists for entry of an order prohibiting
15 Defendants, their agents, servants, employees, assigns,
16 attorneys, and persons in active concert or participation with
17 Defendants, including any successor thereof, from destroying
18 records.
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20 7. Weighing the equities and considering the CFTC's
21 likelihood of success in its claims for relief, the issuance of
22 a statutory restraining order, pending the hearing on this
23 matter scheduled for June 23, 2010 at 11:00 a.m., is in the
24 public interest.
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I.

DEFINITIONS

For purposes of this Order, the following definitions apply:

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

9. "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, income, salary, accounts (including, but not limited to, bank accounts and accounts at financial institutions), credits, receivables, lines of credit, contracts including spot and futures or options contracts, insurance policies, and all cash, wherever located.

1 10. "Defendant" shall mean and refer to not only Jackson
2 and/or Highlands but also to any d/b/a, successor, affiliate,
3 subsidiary or other entity owned, controlled, managed or held
4 by, on behalf of, or for the benefit of Jackson and/or
5 Highlands.
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7 **II.**

8 **ORDER AGAINST TRANSFER, DISSIPATION, AND DISPOSAL OF ASSETS**

9 **IT IS HEREBY ORDERED** that:

10 11. Defendants, and their agents, servants, employees,
11 assigns, attorneys, and persons in active concert or
12 participation with them, including any successor thereof, who
13 receive actual notice of this Order by personal service or
14 otherwise, are immediately restrained and enjoined from directly
15 or indirectly withdrawing, transferring, removing, dissipating,
16 or otherwise disposing of any of Defendants' Assets wherever
17 located, including Defendants' Assets held outside the United
18 States, except as otherwise ordered by the Court. The assets
19 affected by this paragraph shall include both existing
20 Defendants' Assets and any assets in which either Defendant
21 acquires any interest after the effective date of this Order.
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23 12. Defendants are restrained and enjoined from directly
24 or indirectly opening or causing to be opened any safe deposit
25 boxes titled in the name of, or subject to, access by
26 Defendants.
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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 Defendants' Assets at any time since January 1, 2006, shall:

13. Prohibit Defendants and all other persons from withdrawing, transferring, removing, dissipating, or otherwise disposing of Defendants' Assets, except as directed by further Order of the Court; and

14. 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; or (b) otherwise subject to access by Defendants.

IV.

MAINTENANCE OF BUSINESS RECORDS

IT IS FURTHER ORDERED that:

15. Defendants and their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendants, including any successor thereof, and all other persons or entities who receive notice of this Order by personal service or otherwise, are immediately

1 restrained and enjoined from directly or indirectly destroying,
2 mutilating, erasing, altering, concealing or disposing of, in
3 any manner, directly or indirectly, any documents that relate to
4 the business practices or business or personal finances of
5 Defendants and their subsidiaries or affiliates.

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7 **V.**

8 **BOND NOT REQUIRED OF PLAINTIFF**

9 **IT IS FURTHER ORDERED** that:

10 16. The CFTC is an agency of the United States of America
11 and, accordingly, need not post a bond.

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13 **VI.**

14 **ORDER TO SHOW CAUSE**

15 **IT IS FURTHER ORDERED** that:

16 17. Defendants shall appear before this Court on the **23rd**
17 **day of June, 2010, at 11:00, a.m.,** before the Honorable Samuel
18 Conti at the United States Courthouse for the Northern District
19 of California, San Francisco Division, **Courtroom 1 (seventeenth**
20 **floor)**, to show cause, if there be any, why the relief granted
21 in this Order should not be continued and why the further relief
22 requested by the CFTC in its Ex Parte Emergency Motion For
23 Statutory Restraining Order, Order to Show Cause Regarding
24 Preliminary Injunction, Preliminary Injunction, And Other
25 Equitable Relief should not be granted.
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VII.

SERVICE

IT IS FURTHER ORDERED that:

18. Copies of this Order may be served by any means, including electronic mail or facsimile transmission, upon any entity or person that may have possession, custody, or control of any documents or Defendants' Assets that may be subject to any provision of this Order, and, additionally, that Matthew Elkan, Patrick Pericak, Daniel Jordan, William McNish, Erica Bodin, and Richard Glaser of the CFTC, a representative(s) of the Tiburon, California Police Department, and a 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 CFTC representative, any U.S. Marshal or deputy U.S. Marshal, any representative of the Tiburon, California Police Department, 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.


VIII.

FORCE AND EFFECT

IT IS FURTHER ORDERED that 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.

IT IS SO ORDERED, at San Francisco, California, on the 17th day of June, 2010.

HONORABLE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA



Judge Samuel Conti

JUDGE
CALIFORNIA