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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

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UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

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U.S. COMMODITY FUTURES  
TRADING COMMISSION,

Plaintiff,

v.

WECORP, INC., a Hawaii company;  
STUART W. JONES, an individual; and  
PAYTON LOWE, an individual,

Defendants,

GARY V. DUBIN, an individual; GARY  
DUCK, an individual, and NATHAN P.  
RAMOS, an individual,

Relief Defendants.

2:09-CV-00153-PMP

**FILED UNDER SEAL**

ORDER GRANTING PLAINTIFF'S EX  
PARTE EMERGENCY MOTION FOR  
STATUTORY RESTRAINING ORDER

This matter came before the Court for hearing on April 8, 2009 on Plaintiff  
Commodity Futures Trading Commission's (CFTC) Ex Parte Emergency Motion for a  
Statutory Restraining Order, Expedited Discovery, Order to Show Cause Regarding  
Preliminary Injunction and Other Equitable Relief (Motion) (Doc. #4). The Court, having  
considered the Motion, the memorandum in support thereof, and all other evidence  
presented by the CFTC, and having heard the arguments of CFTC's counsel, finds that:

1. This Court has jurisdiction over the parties and over the subject matter of this  
action pursuant to Section 6c of the Commodity Exchange Act (Act), 7 U.S.C. § 13a-1  
(2006), and Section 2(c)(2) of the Act, as amended by the Food, Conservation, and Energy  
Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act (CRA),

**SEALED**  
BY ORDER OF THE COURT

1 §§ 13101-13204, 122 Stat. 1651 (effective June 18, 2008), to be codified at 7 U.S.C.  
2 § 2(c)(2).

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

5 3. There is good cause to believe that Defendants WeCorp, Inc. (WeCorp), Stuart  
6 W. Jones (Jones) and Payton Lowe (Lowe) (collectively, Defendants) have engaged, are  
7 engaging, and are about to engage in acts and practices constituting violations of the Act, as  
8 amended, to be codified at 7 U.S.C. §§ 1, et seq., and that Relief Defendants Gary V. Dubin  
9 (Dubin), Gary Duck (Duck), and Nathan P. Ramos (Ramos) (collectively, Relief  
10 Defendants) have received, are receiving, and are about to receive funds as a result of  
11 Defendants' acts and practices that violate the Act.

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

17 5. Good cause exists for the freezing of assets owned, controlled, managed, or held  
18 by, on behalf of, or for the benefit of Defendants and for entry of an order prohibiting  
19 Defendants and Relief Defendants, their agents, servants, employees, assigns, attorneys, and  
20 persons in active concert or participation with Defendants and Relief Defendants, including  
21 any successor thereof, from destroying records. Additionally, good cause exists for entry of  
22 an order prohibiting Defendants or anyone at their direction or on their behalf from denying  
23 CFTC representatives access to inspect and copy records to ensure that CFTC  
24 representatives have immediate and complete access to those books and records.

25 6. Good cause exists for entry of an order ex parte based on evidence presented to  
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1 the Court that if Defendants and/or Relief Defendants received prior notice, Defendants  
2 may dissipate or conceal assets, destroy or modify documents, and/or possibly leave the  
3 United States.

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

6 **I.**

7 **DEFINITIONS**

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

9 8. The term "document" is synonymous in meaning and equal in scope to the usage  
10 of the term in Federal Rule of Civil Procedure (FRCP) 34(a), and includes, but is not  
11 limited to, writings, drawings, graphs, charts, photographs, audio and video recordings,  
12 computer records, and other data compilations from which information can be obtained and  
13 translated, if necessary, through detection devices into reasonably usable form. A draft or  
14 non-identical copy is a separate document within the meaning of the term.

15 9. "Assets" mean any legal or equitable interest in, right to, or claim to, any real or  
16 personal property, whether individually or jointly, direct or indirect control, and wherever  
17 located, including, but not limited to: chattels, goods, instruments, equipment, fixtures,  
18 general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes,  
19 accounts (including, but not limited to, bank accounts and accounts at financial institutions),  
20 credits, receivables, lines of credit, contracts including spot and futures or options contracts,  
21 insurance policies, and all cash, wherever located.

22 10. "Defendants" shall mean and refer to not only WeCorp, Jones, and Lowe but  
23 also to any d/b/a, successor, affiliate, subsidiary or other entity owned, controlled, managed  
24 or held by, on behalf of, or for the benefit of WeCorp, Jones, and/or Lowe.

25 11. "Relief Defendants" shall mean and refer to not only Dubin, Duck, and Ramos  
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1 but also to any d/b/a, successor, affiliate, subsidiary or other entity owned, controlled,  
2 managed or held by, on behalf of, or for the benefit of Dubin, Duck, and/or Ramos.

3 **II.**

4 **RELIEF GRANTED**

5 **Order Against Transfer, Dissipation, and Disposal of Assets**

6 **IT IS HEREBY ORDERED** that:

7 12. Defendants and their agents, servants, employees, assigns, attorneys, and  
8 persons in active concert or participation with them, including any successor thereof, and  
9 persons in active concert or participation with them, who receive actual notice of this Order  
10 by personal service or otherwise, are immediately restrained and enjoined from directly or  
11 indirectly transferring, selling, alienating, liquidating, encumbering, pledging, leasing,  
12 loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing  
13 of any of Defendants' Assets, wherever located, including Defendants' Assets held outside  
14 the United States, except as otherwise ordered by the Court. The Assets affected by this  
15 paragraph shall include both existing Assets and Assets acquired after the effective date of  
16 this Order.

17 13. Relief Defendants and their agents, servants, employees, assigns, attorneys, and  
18 persons in active concert or participation with them, including any successor thereof, and  
19 persons in active concert or participation with them, who receive actual notice of this Order  
20 by personal service or otherwise, are immediately restrained and enjoined from directly or  
21 indirectly transferring, selling, alienating, liquidating, encumbering, pledging, leasing,  
22 loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing  
23 of any assets received from Defendants.

24 14. Defendants are restrained and enjoined from directly or indirectly opening or  
25 causing to be opened any safe deposit boxes titled in the name of, or subject to, access by  
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1 Defendants.

2 **III.**

3 **Directives to Financial Institutions and Others**

4 **IT IS FURTHER ORDERED**, pending further Order of this Court, that any  
5 financial or brokerage institution, business entity, or person that holds or has held, controls  
6 or has controlled, or maintains or has maintained custody of any of Defendants' Assets at  
7 any time since June 1, 2008, shall:

8 15. Prohibit Defendants and all other persons from withdrawing, removing,  
9 assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling,  
10 or otherwise disposing of Defendants' Assets, except as directed by further Order of the  
11 Court;

12 16. Deny Defendants and all other persons access to any safe deposit box that is: (a)  
13 owned, controlled, managed, or held by, on behalf of, or for the benefit of Defendants,  
14 either individually or jointly; or (b) otherwise subject to access by Defendants;

15 17. Provide counsel for the CFTC, within ten (10) business days of receiving a copy  
16 of this Order, a statement setting forth: (a) the identification number of each and every  
17 account or other asset owned, controlled, managed, or held by, on behalf of, or for the  
18 benefit of Defendants, either individually or jointly; (b) the balance of each such account, or  
19 a description of the nature and value of such asset as of the close of business on the day on  
20 which this Order is served, and, if the account or other asset has been closed or removed,  
21 the date closed or removed, the total funds removed in order to close the account, and the  
22 name of the person or entity to whom such account or other asset was remitted; and (c) the  
23 identification of any safe deposit box that is owned controlled, managed, or held by, on  
24 behalf of, or for the benefit of Defendants, either individually or jointly, or is otherwise  
25 subject to access by Defendants; and

26 18. Upon request by the CFTC, promptly provide the CFTC with copies of all

1 records or other documentation pertaining to such account or asset, including, but not  
2 limited to, originals or copies of account applications, account statements, signature cards,  
3 checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit  
4 instruments or slips, currency transaction reports, Internal Revenue Service Form 1099s,  
5 and safe deposit box logs.

6 **IV.**

7 **Maintenance of Business Records**

8 **IT IS FURTHER ORDERED** that:

9 19. Defendants, Relief Defendants, and their agents, servants, employees, assigns,  
10 attorneys, and persons in active concert or participation with Defendants or Relief  
11 Defendants, including any successor thereof, and all other persons or entities who receive  
12 notice of this Order by personal service or otherwise, are immediately restrained and  
13 enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or  
14 disposing of, in any manner, directly or indirectly, any documents that relate to the business  
15 practices or business or personal finances of Defendants and their subsidiaries or affiliates.

16 **V.**

17 **Inspection and Copying of Books and Records**

18 **IT IS FURTHER ORDERED** that:

19 20. Representatives of the CFTC shall immediately be allowed to inspect the books,  
20 records, and other documents of Defendants, including, but not limited to, electronically  
21 stored information, tape recordings, and computer discs, wherever they may be situated and  
22 whether they are in the person of Defendants or others, and to copy said documents,  
23 information and records, either on or off Defendants' premises; and

24 21. Defendants and their employees, including any successor thereof, who receive  
25 actual notice of this Order by personal service or otherwise, including facsimile or other  
26 electronic transmission, shall cooperate fully with the CFTC to locate and provide to

1 representatives of the CFTC all books and records of Defendants, wherever such books and  
2 records may be situated, and to locate and provide to representatives of the CFTC  
3 information regarding the whereabouts of Defendants.

4 **VI.**

5 **Bond Not Required of Plaintiff**

6 **IT IS FURTHER ORDERED** that:

7 22. The CFTC is an agency of the United States of America and, accordingly, need  
8 not post a bond.

9 **VII.**

10 **Hearing**

11 **IT IS FURTHER ORDERED** that:

12 23. The CFTC, Defendants, and Relief Defendants shall appear before this Court via  
13 telephone on the 14th day of April, 2009, at 3:30 p.m. (Pacific Time), before the Honorable  
14 Philip Pro, presiding at the United States Courthouse for the District of Nevada at Las  
15 Vegas for a preliminary status conference regarding this matter. Counsel and parties  
16 representing themselves shall contact Courtroom Deputy Donna Andrews at 702-464-5426  
17 to coordinate their participation in this telephonic hearing.

18 **VIII.**

19 **Service**

20 **IT IS FURTHER ORDERED** that:

21 24. Copies of this Order may be served by any means, including facsimile  
22 transmission, upon any entity or person that may have possession, custody, or control of any  
23 documents or Defendants' Assets that may be subject to any provision of this Order, and,  
24 additionally, that Jeff Le Riche, Jennifer J. Chapin, Tamera Goodman, Jo Mettenburg, and  
25 Rick Glaser (among other representatives of the CFTC, including but not limited to private  
26 process servers), are specially appointed by the Court to effect service. Further, service of

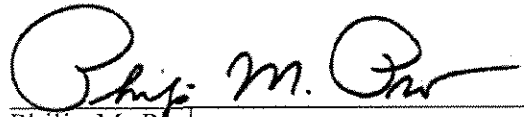
1 the Summons, Complaint, or other process may be effected by any CFTC representative,  
2 any private process server, any U.S. Marshal or deputy U.S. Marshal, or in accordance with  
3 FRCP 4.

4 **IX.**

5 **Force and Effect**

6 **IT IS FURTHER ORDERED** that this Order shall remain in full force and effect  
7 until further order of this Court or until the Order otherwise expires pursuant to the Federal  
8 Rules of Civil Procedure or other applicable rule or statute, and that this Court retains  
9 jurisdiction of this matter for all purposes.

10 **IT IS SO ORDERED**, at Las Vegas, Nevada, on the   9th   day of April, 2009, at  
11   7:45   a .m. (Pacific Time).

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14 Philip M. Pro<sup>1</sup>  
15 United States District Judge  
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26 <sup>1</sup> The Honorable Philip M. Pro, United States District Judge for the District of Nevada,  
sitting by designation.