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1-11-05

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

GEORGE HEFFERNAN,
a/k/a GEORGE W. MARSHALL,

Defendant.

) Civil Action No.: 4:04-23302-25

) Order Supplementing December 21, 2004
) *Ex Parte* Statutory Restraining Order
) with Asset Freeze

Plaintiff, the Commodity Futures Trading Commission ("Commission") has filed a complaint for permanent injunction and other relief, and moved *ex parte*, pursuant to Section 6c of the Commodity Exchange Act ("Act"), 7 U.S.C. § 13a-1 (2002), for a Statutory Restraining Order. Previously, on December 21, 2004, this Court entered a Statutory Restraining Order freezing the assets of the defendant, George Heffernan, and prohibiting the defendant from destroying any business records, books, or documents.

On January 4, 2005, a hearing was held before the undersigned to consider whether there should be any modification of the Court's December 21, 2004, Order and whether plaintiff's motion for a preliminary injunction and/or for other equitable relief should be granted. At that time, legal counsel for the plaintiff appeared and offered legal argument in this regard. The defendant, although provided with adequate notice, did not appear.

Having carefully considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission's motion, as well as the legal argument and evidence provided by the Commission at the January 4, 2005, hearing, the undersigned finds that there is good cause to believe that plaintiff Commission requires further relief to protect public customers from loss and damage, and enable the Commission to fulfill its statutory duties. Therefore, this Court further Orders as follows:

DEFINITIONS

For the 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 Federal Rule of Civil Procedure 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.
2. "Defendant" and "Heffernan" mean George Heffernan, also know as George W. Marshall, and any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee, or attorney of Heffernan, and any person who receives actual notice of this Order by personal service or otherwise insofar as he or she is acting in concert or participation with Heffernan.

I.
Directives to Financial Institutions and Others

IT IS HEREBY ORDERED, pending further Order of this Court, that any financial or brokerage institution, business entity, or person, that holds, controls, or maintains custody of any account or asset, or at any time since February 25, 2003, has held, controlled, or maintained custody of any account or asset of Heffernan shall:

- A. Provide the Commission within twenty (20) business days of either receiving this Order or a copy of it, or a reasonable time thereafter, a statement setting forth:
1. The identification number of each and every account or asset titled in the name, individually or jointly, of, or held on behalf of, or for the benefit of, Heffernan, Index Analysis Pool, L.P., or Index Analysis Service; and
 2. 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
 3. The identification of any safe deposit box that is either titled in the name, individually or jointly, of Heffernan or is otherwise subject to access by Heffernan;
- B. Upon request by the Commission, provide the Commission, within twenty (20) business days of either receiving this Order or a copy of it, or a reasonable time

thereafter, with copies of all records or other documentation pertaining to such account or asset, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, wire transfer advice, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit logs.

II.

Compensation of Financial Institutions

IT IS FURTHER ORDERED that plaintiff Commission shall make reasonable reimbursement to financial institutions for records and other documentation produced pursuant to Section I. above. Such reimbursement shall be made in accordance with the fee schedule established by the Board of Governors of the Federal Reserve System. 12 C.F.R. § 219.3, App. A (1997). Reimbursement is not to be made until the financial institution has satisfactorily complied with the access request and has submitted an itemized invoice. A Financial Institution shall contact the Commission if it anticipates that its reimbursement costs will exceed two-hundred and fifty dollars.

III.

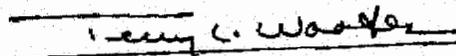
Service of Order

IT IS FURTHER ORDERED that copies of this Supplemental Order may be served by any means, including facsimile transmission, upon any entity or person that may have possession, custody, or control of any document or asset of Heffernan, or that may be subject to any provision of this Order, and, additionally, that representatives of the Commission are specially appointed by the Court to effect service of this Order.

**IV.
Force and Effect**

IT IS FURTHER ORDERED that: (1) this Order shall in no way limit or otherwise narrow the terms of the *Ex Parte* Statutory Restraining Order entered by this Court on December 21, 2004; (2) this Supplemental Order, the December 21, 2004 *Ex Parte* Statutory Restraining Order, and the Order of Preliminary Injunction dated January 11, 2005, shall remain in full force and effect until further order of this Court; and (3) this Court shall retain jurisdiction over this matter for all purposes.

IT IS SO ORDERED.



Terry L. Wooten
United States District Judge

January 11, 2005
Florence, South Carolina