

**In The United States District Court
For The Southern District Of Ohio
Eastern Division**

Commodity Futures Trading Commission,
Plaintiff,

vs.

MARIN ILLIEV YANEV, individually and
d/b/a FX UNIGMA, INC. and FX WORLD, INC.
Defendants.

Case No: 2:05cv900

District Judge Michael H. Watson

EX PARTE STATUTORY RESTRAINING ORDER

On September 29, 2005 Plaintiff, the Commodity Futures Trading Commission (“Commission”), filed a Complaint for permanent injunction and other relief, and moved pursuant to Section 6c of the Commodity Exchange Act, as amended (the “Act”), 7 U.S.C. § 13a-1 (2003), for an *Ex Parte* Statutory Restraining Order prohibiting Defendant (as defined in the definitions section) from, among other things, dissipating, concealing, transferring, or otherwise disposing of any assets, as set forth below, or destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect and copy, when and as requested, any books, records, electronically stored data, including computers and computer data, or other documents wherever they may be. Additionally, the Commission sought leave of court to conduct expedited discovery.

On September 29, 2005 the Court granted the Commission’s request for an Ex Parte Statutory Restraining Order until October 11, 2005 at 5:00 p.m. The Ex Parte Statutory

Restraining Order froze the defendant's assets, prohibited the defendant from destroying any documents and granted the Commission's request for expedited discovery. The Court set a telephone status conference for October 11, 2005 at 9:00 a.m. The Court also instructed counsel for the Commission to contact the defendant and notify him of the Ex Parte Statutory Restraining Order and inform the Defendant of the telephone status conference.

On October 11, 2005 at 9:00 a.m. the telephone status conference was held. Counsel for the Commission appeared and Glenn Cairns appeared for the defendant. The parties agreed to extend the Ex Parte Statutory Restraining Order until December 12, 2005.

Based upon the consent of the parties the Court now orders that the Ex Parte Statutory Restraining Order signed on September 29, 2005 is hereby extended until 5:00 p.m. on December 12, 2005.

As it appears to the Court that the Court has jurisdiction over the subject matter of this case, that Section 6c of the Act, 7 U.S.C. § 13a-1, authorizes *ex parte* relief, that there is good cause to believe that the defendant has engaged in, is engaging in, or is about to engage in violations of the Act, and that this is a proper case for granting an Ex Parte Statutory Restraining Order to preserve the status quo, protect public customers from loss and damage, and enable the Commission to fulfill its statutory duties, the Court 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 (including, but not limited to, floppy diskettes, hard disks, ZIP disks, CD-ROMs, optical discs, backup tapes, printer buffers, smart cards, memory calculators, pagers, personal digital assistants such as Palm Pilot computers, as well as printouts or readouts from any magnetic storage device), 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" means Marin Illiev Yanev, individually and d/b/a FX Unigma, Inc. and FX World, Inc., and any person insofar as he or she is acting in the capacity of their officer, agent, servant, employee or attorney, 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 participating with them.

I.

ASSET FREEZE

IT IS ORDERED that the defendant, except otherwise ordered by this Court, is 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 assets, wherever located, including assets held outside the United States.

II.

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, 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 the defendant, or has held, controlled, or maintained custody of any such account or asset of any defendant at any time shall:

A. Prohibit the Defendant and all other persons from withdrawing, removing, assigning, transferring, wire transactions of any kind, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;

B. Deny the Defendant and all other persons access to any safe deposit box that is:

1. titled in the name of the Defendant; or
2. otherwise subject to access by the Defendant;

C. Provide the counsel for the Commission, within five (5) business days of receiving a copy of this Order, a statement setting forth:

1. the identification number of each such account or asset titled in the name, individually or jointly, of the Defendant, or held on behalf of, or for the benefit of the Defendant, or under the control of any of the Defendant;

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 the Defendant or is otherwise subject to access by the Defendant;

D. Upon request of the Commission, promptly provide the Commission 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, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

Such financial or brokerage institution, business entities include, without limitation, the following accounts controlled by the defendant:

- | | |
|---|---|
| a. 2checkout.com
1785 O'Brien Road
Columbus, Ohio 43228 | b. Bank of New York
Legal Process Division
5 th Floor
123 Main Street
White Plains, New York 10602 |
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III

MAINTENANCE OF DOCUMENTS

IT IS HEREBY FURTHER ORDERED that the Defendant and all persons or entities who receive notice of this Order by personal service or otherwise, are 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 documents in the possession or control of the Defendant, his agents, attorneys, partners, servants, representatives, employees, attorneys, any person (s) acting or purporting to act for or on his behalf, and/or acting for or on behalf of any corporation, partnership or any other type of entity in which Defendant has an interest.

IV.

INSPECTION AND COPYING OF DOCUMENTS

IT IS FURTHER ORDERED that representatives of the Commission be immediately allowed to inspect the books, records, and other documents of the Defendant, his agents, attorneys, partners, servants, representatives, employees, any person(s) acting or purporting to act for or on their behalf, and /or any corporate, partnership or any other entity in which Defendant has an interest, wherever situated, including, but not limited to, electronically stored data, tape recordings, and computer discs, wherever they may be situated, whether they are in the possession or control of the Defendant, or the possession or control of others, and to copy said documents, data and records, either on or off the premises where they may be situated.

V.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that the Court having found that there is good cause to believe that the defendant has engaged in, is engaging in or are about to engage in violations of the Act, and that this is a proper case for granting an *ex parte* statutory restraining Order to preserve the status quo, protect public customers from loss and damage, and enable the Commission to fulfill its statutory duties, expedited discovery is hereby authorized and discovery may commence forthwith.

VI.

SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any entity or person that may have possession, custody, or control of any documents of the Defendant 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. Service of the summons, Complaint or other process may be affected by U.S. Marshal or deputy U.S. Marshal, or in accordance with Federal Rule of Civil Procedure 4.

VII.

SERVICE ON THE COMMISSION

IT IS FURTHER ORDERED that the Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Robert J. Hildum, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581.

VIII.

BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED that Plaintiff Commission is an agency of the United States of America and, accordingly, no bond need be posted by the Commission

VI.

FORCE AND EFFECT

IT IS FURTHER ORDERED that this Order shall remain in full force and effect until December 12, 2005 at 5:00 p.m. and that this Court shall retain jurisdiction of this matter for all purposes.

Additionally, this matter is hereby scheduled for a telephone status conference on Monday, December 12, 2005 at 1:00 p.m. Parties shall initiate contact with the Court by calling (614) 719-3280 five minutes before the scheduled time of the conference.

IT IS SO ORDERED



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT