

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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Commodity Futures Trading Commission,

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ENTERED

Plaintiff,

★ \_\_\_\_\_ ★

v.

(Proposed) *Ex Parte* Statutory  
Restraining Order with Asset Freeze

Anthony Michael Frisone,  
Windsor Forex Trading Corp.,  
and COES FX Clearing, Inc.

PLATT, J.

Defendants.

ORENSTEIN, M.J.

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 (the "Act"), 7 U.S.C. § 13a-1 (2002), for a Statutory Restraining Order freezing the assets of Defendants Windsor Forex Trading Corp. and Anthony Michael Frisone, and prohibiting the Defendants from destroying any business records, books or documents. The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission's motion. 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 (2002), authorizes *ex parte* relief, that there is good cause to believe that the Defendants have engaged in, are 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, 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, 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. "Defendants" means Windsor Forex Trading Corp. ("WFTC"), Anthony Michael Frisone ("Frisone") and COES FX Clearing, Inc. ("COESfx"), and any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee, or attorney of WFTC, Frisone or COESfx, 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 WFTC, Frisone or COESfx.

### I.

#### Asset Freeze

**IT IS HEREBY ORDERED** that Defendants WFTC and Frisone, except as otherwise ordered by this Court, are restrained and enjoined from directly or indirectly:

- A. transferring, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing of any assets, wherever located, including assets held in corporate or partnership accounts in which Defendants WFTC or Frisone have an interest,

except as provided in Paragraphs III of this Order or as otherwise ordered by the Court;

- B. opening or causing to be opened any safe deposit boxes titled in the name of, or subject to access by Defendants WFTC or Frisone.

## 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, or at any time since December 2002, has held, controlled, or maintained custody of any account or asset of Defendants WFTC or Frisone shall:

- A. Prohibit Defendants WFTC and Frisone and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;
- B. Deny Defendants WFTC and Frisone and all other persons access to any safe deposit box that is:
  - 1. titled in the name of Defendants WFTC or Frisone either individually or jointly; or
  - 2. otherwise subject to access by Defendants WFTC or Frisone.
- 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 and every account or asset titled in the name, individually or jointly, of, or held on behalf of, or for the benefit of, Defendants WFTC or Frisone;

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 Defendants WFTC or Frisone or is otherwise subject to access by Defendants WFTC or Frisone;
- D. Upon request by 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.

### III.

#### Accounting

**IT IS FURTHER ORDERED** that within three (3) business days following the service of this Order, Defendants WFTC and Frisone shall:

- A. Provide the Commission with a full accounting of all funds and assets both within and outside of the United States which are held by Defendants WFTC or Frisone, on their behalf, or under their direct or indirect control, whether jointly or singly, or in which they have an interest, and a full accounting of all funds and assets that Defendants WFTC or Frisone received from its clients and the ultimate use or current location of those funds or assets;

- B. Provide the Commission with full access to and permit copying of all documents both within and outside of the United States that are held by them, on their behalf, or under their direct or indirect control, or relate to a corporate or partnership entity in which they have an interest;
- C. Transfer to the territory of the United States all funds, documents, and assets located in foreign countries that are held by them, for their benefit, or under their direct or indirect control, whether jointly or singly;
- D. Provide the Commission access to all records of Defendants WFTC and Frisone held by financial institutions located both within and outside the territorial United States by signing a Consent to Release of Financial Records; and
- E. Provide the Commission with a complete customer list, including, without limitation, the names, addresses and telephone numbers of all persons who transferred funds to Defendants WFTC or Frisone from December 1, 2002 to the present.

IV.

**Maintenance of and Access to Business Records**

**IT IS HEREBY ORDERED** that the Defendants 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 documents that relate to the business practices or business or personal finances of any Defendant.

V.

**Inspection and Copying of Books and Records**

**IT IS FURTHER ORDERED** that representatives of the Commission be immediately allowed to inspect the books, records, and other documents of the Defendants and their agents including, but not limited to, paper documents, electronically stored data, tape recordings, and computer discs, wherever they may be situated and whether they are in the possession of the Defendants or others, and to copy said documents, data and records, either on or off the premises where they may be situated.

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 or assets of the Defendants 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 effected by U.S. Marshal or Deputy U.S. Marshal, or in accordance with Fed. R. Civ. P. 4. *ON THE DEFENDANTS PERSONALLY ON OR BEFORE 6 PM MAY 28, 2005*

**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 T. W. Grant Collins, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581.

**VIII.**

**Order to Show Cause**

**IT IS FURTHER ORDERED** that the Defendants shall appear before this Court on the 31<sup>st</sup> day of May, 2005, at 9:00 a.m., before the Honorable THOMAS C PLATT at the United States Courthouse for the Eastern District of New York at CENTRAL ISLIP, New York to show cause why this Court should not enter a Preliminary Injunction enjoining the Defendants from further violations of the Act, and ordering any additional relief this Court deems appropriate. Should any party wish to file a memorandum of law or other papers concerning the issuance of a Preliminary Injunction against the Defendants, such materials shall be filed, served and received by all parties at least two (2) days before the hearing ordered above.

IX.

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.

SO ORDERED, at Central Islip, New York on this 26 day of  
May, 2005, at 2:00 PM.



UNITED STATES DISTRICT JUDGE