

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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| <p>Commodity Futures Trading Commission, Plaintiff,</p> <p>vs.</p> <p>Mark S. Trimble, and Phidippides Capital Management LLC,</p> <p style="text-align: center;">Defendants, and</p> <p>Phidippides Capital LP,</p> <p style="text-align: center;">Relief Defendant.</p> | <p>Civil Action No: 09-cv-00154-D</p> <p>Judge Timothy D. DeGiusti</p> |
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CONSENT RESTRAINING ORDER

The Court having read the Complaint for Injunctive and Other Equitable Relief, the Motion for Entry of a Consent Statutory Restraining Order, and the exhibits thereto, the brief in support thereof, and all other papers filed herein by the plaintiff, Commodity Futures Trading Commission (“Commission”), it appearing that the Court has jurisdiction over the subject matter and that Section 6c of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. § 13a-1, permits this Court to grant a restraining order; it further appearing to the satisfaction of the Court that there is good cause to believe that defendants Mark S. Trimble (“Trimble”) and Phidippides Capital Management LLC (“PCM”) (collectively referred to as “defendants”), have engaged, are engaging in and are about to engage in violations of Section 4b 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 of 2008 (“CRA”)), § 13102, 122 Stat. 1651 (effective June 18, 2008), to be codified at 7 U.S.C. § 6b, and Section 4o(1) of the Act, 7 U.S.C. § 6o(1) and

Regulation 4.20(c), 17 C.F.R. § 4.20(c) (2008); and having received representations from undersigned counsel that all parties upon notice consent to the entry of this Order;¹ and it further appearing to the satisfaction of the Court that this is a proper case for granting a restraining order to preserve the status quo and to protect public customers from loss and damage;

1. **IT IS HEREBY ORDERED** that Trimble and PCM, and all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns or attorneys of the defendants and all persons insofar as they are acting in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, shall be prohibited from directly or indirectly:

- a) Dissipating, withdrawing, transferring, removing, concealing or disposing of cash, cashier's checks, funds, assets or other property of, or within the custody, control or possession of the defendants, including funds or property of investors, wherever located, whether held in the name of Trimble, PCM and Phidippides Capital LP ("PC LP" also referred to herein as "Relief Defendant"), or otherwise; and
- b) Destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the defendants or PC LP, wherever located, including all such records concerning the defendants' business operations, until further order of the Court.

2. **IT IS FURTHER ORDERED THAT** each firm, corporation or other person or entity with notice which holds or which is a depository of, funds, securities, property, or other assets of or under the control of Mark Trimble or PCM, whether held in the name of Mark Trimble, PCM or PC LP or otherwise, including funds and property

¹Counsel for Mr. Trimble further represented to the Court that Mr. Trimble, as an officer of the defendant entities, consents to the granting of the relief set forth herein.

of investors, is prohibited from transferring, withdrawing, removing, or disposing of any such funds, securities, property, or other assets until further order of the Court.

3. **IT IS FURTHER ORDERED** that representatives of the plaintiff Commission be allowed to immediately inspect the books, records and other electronically stored data, tape recordings, and other documents of the defendants, Trimble and PCM, and Relief Defendant, PC LP, and their agents, including all such records of the defendants' business operations, wherever they are situated and whether they are in the hands of the defendants or others and to copy said documents, data, and records either on or off the premises where they may be situated.

4. **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 owned, controlled, managed, or held by, on behalf of, or for the benefit of the defendants or Relief Defendant, or has held, controlled, or maintained custody of any account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the defendants or Relief Defendant at any time since October 2007, shall:

A. Provide counsel for the Commission, within five (5) business days of receiving a copy of this Order, a statement setting forth: (a) the identification number of each and every such account or asset titled in the name, individually or jointly, of the defendants or Relief Defendant, or owned, controlled, managed, or held by, on behalf of, or for the benefit of the defendants or Relief Defendant; (b) 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 (c) the identification of any safe deposit box that is either titled in the name, individually or jointly, of the defendants or Relief Defendant or is otherwise subject to access by the defendants or Relief Defendant; and

B. 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.

5. **IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including facsimile transmission and Federal Express, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of the defendants or Relief Defendant, or that may be subject to any provision of this Order. Venice Bickham and Cynthia Cannon, both employees of the Commission, are hereby specially appointed to serve process, including this Order and all other papers in this cause.

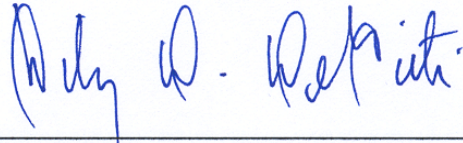
6. **IT IS FURTHER ORDERED** that, notwithstanding the terms of Paragraph 1(a) above, the Bank of America is directed to permit defendant Mark S. Trimble one transaction to withdraw \$7,000 from an account ending with last four digits 7594 to fund his living expenses. No further withdrawals are permitted until further order of this Court.

7. **IT IS FURTHER ORDERED** that this Consent Restraining Order shall remain in full force and effect until March 12, 2009, or as otherwise ordered by the Court.

8. **IT IS FURTHER ORDERED** that the plaintiff's request for a preliminary injunction is set for hearing on Friday, March 6, 2009, at 10:30 a.m., in Courtroom No. 503, United States Courthouse, 200 NW 4th Street, Oklahoma City, Oklahoma. The plaintiff is directed to file appropriate motion papers and supporting

brief on or before February 23, 2009; the defendants shall respond on or before February 27, 2009.

IT IS SO ORDERED this 10th day of February, 2009.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

Approved as to Form:

s/ Mack K. Martin

Mack K. Martin

Attorney for Defendant

*(Signed copy of document bearing
signature of Attorney is being
maintained in the office of Filing Attorney)*

s/ Rosemary Hollinger

Rosemary Hollinger

One of the Attorneys for

Plaintiff