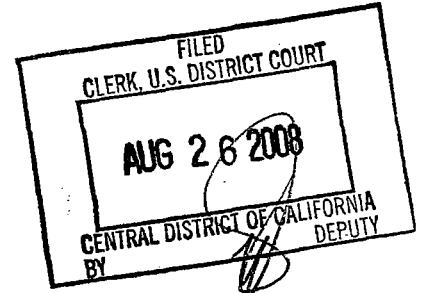


UNITED STATES DISTRICT COURT
CENTRAL DISTRICT CALIFORNIA
WESTERN DIVISION



Commodity Futures Trading
Commission,

Plaintiff,

vs.

Robert D. Bame and
Forward Investment Group,
LLC,

Defendants.

Case No:

CV08-05593

RGK
PLA

LOGGED

2008 AUG 26 PM 1:45

CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

Proposed STATUTORY RESTRAINING ORDER

Having read the Complaint for Injunctive and Other Equitable Relief, Plaintiff's Motion for a Statutory Restraining Order, the Memorandum of Points and Authorities in support of its motion and the supporting declarations and related exhibits; and the Defendants having had telephone notice of the motion;

THE COURT FINDS:

1. The Court has jurisdiction over the subject matter.
2. Section 6c(a) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1 (2002), permits this Court to enter a statutory restraining order ("SRO").

1 3. It appears that there is good cause to believe that Defendants Robert
2 D. Bame (“Bame”) and Forward Investment Group, LLC (“Forward”) have
3 engaged, are engaging in and are about to engage in violations of Sections
4 4b(a)(2)(ii) and 4o(1)(A) and (B) of the Act, 7 U.S.C. §§ 6b(a)(2)(ii) and 6o(1)(A)
5 and (B). There is good cause to believe further that pool participants and
6 prospective pool participants may be cheated and defrauded and that immediate
7 and irreparable damage to the Court's ability to grant effective final relief for pool
8 participants in the form of monetary redress will occur from destruction of records
9 unless the Defendants are immediately restrained and enjoined by Order of this
10 Court and, accordingly, there is good cause to issue this order.
11

12
13
14 4. It further appears to the satisfaction of the Court that this is a proper
15 case for granting a statutory restraining order to preserve the status quo and to
16 protect public pool participants and prospective pool participants from further
17 deceit, loss or damage.
18

19 5. Good cause also exists to permit immediate expedited discovery
20 pursuant to the Federal Rules of Civil Procedure, in order to identify all pool
21 participants and other investors, ascertain the existence and location of
22 Defendants’ assets and clarify the source of pool funds.
23

24 **DEFINITIONS**

25
26 For the purposes of this Order, the following definitions apply:

1 6. The term "document" is synonymous in meaning and equal in scope
2 to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes,
3 writings, drawings, graphs, charts, photographs, audio and video recordings,
4 computer records, and other data compilations from which information can be
5 obtained and translated, if necessary, through detection devices into reasonably
6 usable form. A draft or non-identical copy is a separate document within the
7 meaning of the term.
8

9 7. "Defendants" means Bame and Forward and any person insofar as he
10 or she is acting in the capacity of an officer, agent, servant, employee or attorney
11 of Defendants, and any person who receives actual notice of this Order by
12 personal service or otherwise, including Federal Express and facsimile, insofar as
13 he or she is acting in concert or participation with Defendants.
14
15

16 **RELIEF GRANTED**

17 **STATUTORY RESTRAINING ORDER**

18
19 **I. PROHIBITION OF DESTRUCTION OF BOOKS AND RECORDS**

20 **IT IS ORDERED** that the Defendants and all persons or entities who
21 receive notice of this Order by personal service or otherwise, including facsimile
22 and Federal Express, are restrained and enjoined from directly or indirectly
23 destroying, mutilating, erasing, altering, concealing or disposing of, in any
24
25
26

1 manner, directly or indirectly, any documents that relate to the business practices
2 or business or personal finances of the Defendants.

3 **II. ACCESS TO AND INSPECTION OF BOOKS AND RECORDS**

4 **IT IS FURTHER ORDERED** that representatives of the CFTC be allowed
5 immediately to inspect and copy the books, records, and other documents of the
6 Defendants and their agents including, but not limited to, electronically stored
7 data, tape recordings, and computer discs, wherever they may be situated and
8 whether they are in the possession of the Defendants or others, and to copy said
9 documents, data and records, either on or off the premises where they may be
10 situated.
11
12
13

14 **III. ORDER PERMITTING EXPEDITED DISCOVERY**

15 **IT IS FURTHER ORDERED** that:

16 A. The prohibition upon discovery before the early meeting
17 of counsel is removed pursuant to Rule 26(d) of the Federal Rules of
18 Civil Procedure and parties may initiate discovery immediately upon
19 entry of this Order;

20 B. The parties may proceed to take the oral deposition of any
21 person upon three calendar days actual notice if the notice is served
22 upon the parties personally or by phone or telecopier to the party's
last known phone or telecopier number; and

23 C. The parties may take the deposition of any person for the
24 purpose of discovering the identities of pool participants and other
25 investors and the nature of Defendants' dealings with them, and the
26 nature, location, status, source and extent of assets of the Defendants
and the location of any documents reflecting those assets.

1 **IV. BOND NOT REQUIRED OF PLAINTIFF**

2 **IT IS FURTHER ORDERED** that:

3 1. Pursuant to Section 6c(b) of the Act, 7 U.S.C. § 13a-1, no bond need be
4 posted by the Plaintiff CFTC, which is an agency of the United States of America.
5

6 **V. STAY**

7 **IT IS FURTHER ORDERED** that except by leave of the Court the
8 Defendants and all other persons and entities be and hereby are stayed from taking
9 any action to establish or enforce any claim, right or interest for, against, on behalf
10 of, or in the name of the Defendants, including but not limited to, the following
11 actions:
12

13
14 A. Commencing, prosecuting, litigating or enforcing any suit,
15 except that actions may be filed to toll any applicable statute of
16 limitations;

17 B. Accelerating the due date of any obligation or claimed
18 obligation, enforcing any lien upon, or taking or attempting to take
19 possession of, or retaining possession of, property of the Defendants
20 or any property claimed by the Defendants, or attempting to foreclose,
21 forfeit, alter or terminate any of the Defendants' interests in property,
22 whether such acts are part of a judicial proceeding or otherwise;

23 C. Using self-help or executing or issuing, or causing the
24 execution or issuance of any court attachment, subpoena, replevin,
25 execution or other process for the purpose of impounding or taking
26 possession of or interfering with, or creating or enforcing a lien upon
any property, wherever located, owned by or in the possession of the
Defendants; and

D. Doing any act or thing to interfere with the exclusive
jurisdiction of this Court over the property and assets of the

1 Defendants. This Paragraph does not stay the commencement or
2 continuation of an action or proceeding by a governmental unit to
enforce such governmental unit's police or regulatory power.

3 **VI. DIRECTIVES TO FINANCIAL INSTITUTIONS AND OTHERS**

4 **IT IS FURTHER ORDERED**, pending further Order of this Court, that
5 any financial or brokerage institution, business entity, or person that holds,
6 controls, or maintains custody of any account or asset owned, controlled, managed,
7 or held by, on behalf of, or for the benefit of the Defendants, or has held,
8 controlled, or maintained custody of any account or asset owned, controlled,
9 managed, or held by, on behalf of, or for the benefit of the Defendant at any time
10 since January 1, 2005, shall:

11 A. Provide counsel for the Commission, within five (5)
12 business days of receiving a copy of this Order, a statement setting
13 forth: (a) the identification number of each and every such account or
14 asset titled in the name, individually or jointly, of the Defendants, or
15 owned, controlled, managed, or held by, on behalf of, or for the benefit
16 of the Defendants; (b) the balance of each such account, or a
17 description of the nature and value of such asset as of the close of
18 business on the day on which this Order is served, and, if the account
19 or other asset has been closed or removed, the date closed or removed,
20 the total funds removed in order to close the account, and the name of
21 the person or entity to whom such account or other asset was
22 remitted; and (c) the identification of any safe deposit box that is
23 either titled in the name, individually or jointly, of the Defendants or
is otherwise subject to access by the Defendants; and

24 B. Upon request by the Commission, promptly provide the
25 Commission with copies of all records or other documentation
26 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

1 the accounts, all other debit and credit instruments or slips, currency
2 transaction reports, 1099 forms, and safe deposit box logs.

3 **VII. SERVICE OF ORDER**

4 **IT IS FURTHER ORDERED** that copies of this Order may be served by
5 any means, including facsimile transmission and Federal Express, upon any
6 financial institution or other entity or person that may have possession, custody, or
7 control of any documents or assets of the Defendants, or that may be subject to
8 any provision of this Order. William Janulis, Michael Tallarico, Ralph
9 DerAsadourian and Cynthia Cannon, all employees of the CFTC, are hereby
10 specially appointed to serve process, including this Order and all other papers in
11 this cause.
12
13

14 **VIII. SERVICE ON THE COMMISSION**

15 **IT IS FURTHER ORDERED** that the Defendants shall serve all
16 pleadings, correspondence, notices required by this Order, and other materials on
17 the Plaintiff Commission by delivering a copy to William Janulis, Senior Trial
18 Attorney, Division of Enforcement, Commodity Futures Trading Commission,
19 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.
20
21

22 **VIII. COURT MAINTAINS JURISDICTION**

23 **IT IS FURTHER ORDERED** that this Statutory Restraining Order shall
24 remain in full force and effect until further Order of this Court, upon application,
25
26

1 notice and an opportunity to be heard, and that this Court retains jurisdiction of
2 this matter for all purposes.

3 **IX. FURTHER COURT HEARINGS**

4
5 1. **IT IS FURTHER ORDERED** ~~that this matter is set for a status~~
6 ~~hearing on _____ and/or that plaintiff's Motion for a~~

7 Preliminary Injunction is set for hearing on Sept. 8, 2008 @ 9:00 a.m. *Defendants*
8 *shall file and serve any opposition to the motion no later*
9 **IT IS SO ORDERED.** *than Sept. 3, 2008. The Motion for Prelimin.*
10 *Injunction is hereby taken under* *Submission*

11 Signed at _____ o'clock am/pm on the 26th day of August, 2008

12
13 *Gary Klausner*
14 UNITED STATES DISTRICT JUDGE