

OFFICE OF U.S. DISTRICT JUDGE WILLIAM J. HAYNES, JR.  
UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE

Suite A845  
801 Broadway  
Nashville, TN 37203

Phone: 615-736-217

Fax: 615-736-5285

TO: Glenn Chernigoff  
FROM: Meghan Leggett  
DATE: 10/16/06

CONTENTS OF TRANSMISSION: \_\_\_\_\_

THIS TELEFAX TRANSMISSION CONSISTS OF 10 PAGES, INCLUDING THIS COVER SHEET.

OTHER REMARKS: \_\_\_\_\_

IF YOU HAVE ANY QUESTIONS REGARDING THIS FAX, PLEASE CONTACT JUDGE HAYNES' OFFICE AT (615) 736-7217.

PAGE 1 OF 10 PAGES

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE

COMMODITY FUTURES TRADING COMMISSION,

Plaintiff,

v.

CHRISTIAN KIS,

Defendant.

Civil Action No. \_\_\_\_\_

**8 06 0935**

**JUDGE HAYNES**

**STATUTORY RESTRAINING ORDER**

This matter came on for hearing on October 6, 2006 on the motion of Plaintiff, the Commodity Futures Trading Commission ("Commission"), for a: (1) Statutory Restraining Order and (2) Order permitting Expedited Discovery (the "Motion"). The Court, having considered the complaint, declarations, exhibits, and memorandum filed in support of the Motion, and having heard the arguments of the parties, finds that:

1. This Court has jurisdiction over Defendant Christian Kis and the subject matter of this case pursuant to Section 6c of the Commodity Exchange Act, as amended (the "CEA"), 7 U.S.C. § 13a-1 (2002).

2. Venue lies properly within this district pursuant to Section 6c(e) of the CEA, 7 U.S.C. § 13a-1(e) (2002), because there is good cause to believe that Defendant has engaged within this district in acts or practices constituting violations of the CEA.

3. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for investors in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by Defendant

of assets or records unless Defendant is immediately restrained and enjoined by order of this Court.

4. Good cause exists for the freezing of Defendant's assets and for entry of an order prohibiting Defendant from destroying records and denying agents of the Commission access to inspect and copy records.

5. Good cause exists to permit discovery before the early meeting of counsel pursuant to Rule 26(d) of the Federal Rules of Civil Procedure ("FRCP").

6. Pursuant to FRCP 30(a)(2), the parties are authorized to conduct depositions immediately.

7. Weighing the equities and considering the Commission's likelihood of success in its claims for relief, the issuance of the following Statutory Restraining Order ("SRO") is in the public interest.

#### DEFINITIONS

For the purposes of this SRO, the following definitions apply:

8. The term "document" is synonymous in meaning and equal in scope to the usage of the term in FRCP 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.

9. The term "assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including but not limited to chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other

deliveries, inventory, checks, notes, accounts, credits, receivables, contracts, insurance policies, and all cash, wherever located, whether in the United States or abroad.

10. "Defendant" means Christian Kis, and any person insofar as he or she is acting in the capacity of an agent, servant, employee, or attorney of Christian Kis, and any person who receives notice of this SRO insofar as he or she is acting in concert or participation with Christian Kis.

### **RELIEF GRANTED**

#### **I.**

#### **Order Against Transfer, Dissipation, And Disposal Of Assets**

#### **IT IS HEREBY ORDERED that**

11. Defendant 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, including but not limited to those held in the name or under the control of Defendant, wherever located, including assets held outside the United States, except as provided in Paragraph III of this SRO, or as otherwise ordered by the Court. The assets affected by this paragraph shall include both existing assets and assets acquired after the effective date of this SRO.

12. Defendant, and his agents, servants, employees, attorneys, and persons in active concert or participation with them who receive actual notice of this SRO by personal service except as otherwise ordered by this Court, are 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, including but not limited to those held in the name or under the control of Defendant, wherever located, including assets held outside the United States, except as provided in Paragraph III of this SRO, or as otherwise ordered by the Court. The assets affected by this paragraph shall include both existing assets and assets acquired after the effective date of this SRO.

13. Defendant is restrained and enjoined from directly or indirectly opening or causing to be opened any safe deposit boxes titled in the name or subject to access by the Defendant.

## 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 Defendant, or has held, controlled, or maintained custody of any such account or asset of Defendant at any time since March 1, 2003 shall:

14. Prohibit Defendant 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;

15. Deny Defendant access to any safe deposit box that is: (a) titled in the name of the Defendant either individually or jointly or (b) otherwise subject to access by the Defendant;

16. Provide counsel for the Commission, within five (5) business days of receiving a copy of this SRO, a statement setting forth: (a) 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 the 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 SRO 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 Defendant, or is otherwise subject to access by the Defendant; and

17. 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 And Transfer Of Funds And Documents**

**IT IS FURTHER ORDERED** that within five (5) business days following the service of this SRO, Defendant shall:

18. Provide the Commission with a full accounting of all funds, documents, and assets, including those outside of the United States, that are held by them, for their benefit, or under their direct or indirect control, whether jointly or singly;

19. Transfer to the territory of the United States all funds, documents, and assets located in foreign countries which are held by them, for their benefit, or under their direct or indirect control, whether jointly or singly; and

20. Provide the Commission access to all records of the Defendant held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records attached to this SRO.

#### IV.

##### **Maintenance Of Business Records**

**IT IS FURTHER ORDERED** that:

21. Defendant and all persons or entities who receive notice of this SRO by personal service or otherwise, including facsimile transmission, 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 the Defendant.

#### V.

##### **Inspection And Copying Of Books And Records**

**IT IS FURTHER ORDERED** that:

22. Representatives of the Commission be immediately allowed to inspect the books, records, and other documents of the Defendant and his agents including, but not limited to, electronically stored data, tape recordings, and computer discs, wherever they may be situated and whether they are on the person of the Defendant or others, and to copy said documents, data and records, either on or off the premises where they may be situated; and

23. Defendant and his agents, servants, employees, attorneys, and persons in active concert or participation with them who receive actual notice of this SRO by personal service or otherwise, including facsimile transmission, shall cooperate fully with the Commission to locate and provide to representatives of the Commission all books and records of the Defendant, wherever such books and records may be situated.

#### VI.

#### Bond Not Required Of Plaintiff

**IT IS FURTHER ORDERED** that:

24. Plaintiff Commission is an agency of the United States of America and, accordingly, no bond need be posted by the Commission.

#### VII.

#### Order To Show Cause

**IT IS FURTHER ORDERED** that:

25. Defendant shall appear before this Court on the 17<sup>th</sup> day of October 2006, at 3:00 a.m. (p.m.) before this Court at the United States Courthouse, 801 Broadway, Nashville, Tennessee 37203, to show cause, if there be any, why an Order for Preliminary Injunction should not be granted to prohibit further violations of the CEA pending trial on the merits of this action.

26. Any papers in opposition to the Commission's motion for a Preliminary Injunction" shall be filed on or before October 16 2006, and served upon the Commission no later than October 16, 2006.



**VIII.**

**Order Permitting Expedited Discovery**

**IT IS FURTHER ORDERED** that:

27. The prohibition upon discovery before the early meeting of counsel is removed pursuant to FRCP 26(d).

28. The prohibition upon the immediate commencement of depositions is removed pursuant to FRCP 30(a)(2)(C).

29. The parties may proceed to take the oral deposition of any person upon three calendar day's actual notice if the notice is served upon the parties personally or by facsimile transmission.

30. The parties may take the deposition of any person for the purpose of discovering the nature, location, status and extent of assets of the Defendant and the location of any documents reflecting those assets.

**IX.**

**Service Of This SRO**

**IT IS FURTHER ORDERED** that:

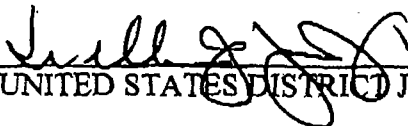
31. This SRO shall be served on Defendant by personal service consistent with FRCP 4(e). All subsequent pleadings, correspondence, notices required by this SRO, and other materials shall be served consistent with FRCP 4.

X.

**Force And Effect**

**IT IS FURTHER ORDERED** that this SRO shall be 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** on this 6<sup>th</sup> day of October 2006.

  
UNITED STATES DISTRICT JUDGE