

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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| <p><b>COMMODITY FUTURES<br/>TRADING COMMISSION,</b></p> <p><b>Plaintiff,</b></p> <p><b>v.</b></p> <p><b>THOMAS LANZANA, individually and<br/>d/b/a UNIQUE FOREX,<br/>NIKOLAY MASANKO,<br/>BLACKBOX PULSE LLC, and<br/>WHITE CLOUD MOUNTAIN LLC,</b></p> <p><b>Defendants.</b></p> | <p><b>Case No:</b> <u>17-cv-6290</u></p> <p><b>Hon.</b> _____</p> <p><b><del>PROPOSED</del> STATUTORY<br/>RESTRAINING ORDER</b></p> |
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**~~PROPOSED~~ STATUTORY RESTRAINING ORDER**

Having read <sup>the Court</sup> the Complaint for Injunctive and Other Equitable Relief and Penalties under the Act filed by Plaintiff Commodity Futures Trading Commission (“CFTC”) and the CFTC’s Motion for a Statutory Restraining Order on Notice (“Motion”), Memorandum in Support of Motion for a Statutory Restraining Order on Notice and Application for an Order to Show Cause Why a Preliminary Injunction Should Not Be Entered, and Other Relief (“Memorandum”), and Appendix of Declarations and Exhibits to Plaintiff’s Memorandum in Support of Motion for a Statutory Restraining Order on Notice and Application for an Order to Show Cause Why a Preliminary Injunction Should Not Be Entered, and Other Relief (“Appendix”), and being fully advised in the premises,

**THE COURT FINDS:**

### FINDINGS

1. This Court has jurisdiction over the parties of this action pursuant to Section 6c(a) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 13a-1 (2012), which authorizes the CFTC to seek injunctive and other relief against any person whenever it appears that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

2. This Court has jurisdiction over the subject matter at issue in this matter pursuant to Section 2(c)(2)(C)(i) and (vii) of the Act, 7 U.S.C. § 2(c)(2)(C)(i), (vii) (2012).

3. Venue lies properly in this District pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), because Defendants transacted business in this District, and certain of the acts and practices in violation of the Act and CFTC Regulations occurred, are occurring, or are about to occur in this District, among other places.

4. <sup>Based on ~~public~~ *reputable* submissions,</sup> It appears there is good cause to believe that Thomas Lanzana (“Lanzana”), individually and doing business as (“d/b/a”) Unique Forex (“Unique Forex”), Nikolay Masanko (“Masanko”), Blackbox Pulse LLC (“Blackbox Pulse”), and White Cloud Mountain LLC (“White Cloud Mountain”) (collectively, “Defendants”) have engaged, are engaging, and/or are about to engage in violations of the Act and CFTC Regulations. Specifically, it appears that Defendants violated Sections 4b(a)(2)(A)-(C), 4o(1)(A)-(B), and 6(c)(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6o(1)(A)-(B), and 9(1) (2012), and Regulations 5.2(b) and 180.1(a), 17 C.F.R. §§ 5.2(b) and 180.1(a) (2017); that Lanzana and Blackbox Pulse violated Section 4m(1) of the Act, 7 U.S.C. § 6m(1) (2012), and Regulations 4.20(a)(1) and (c) and 5.3(a)(2)(i), 17 C.F.R. §§ 4.20(a)(1), (c), 5.3(a)(2)(i) (2017); and that Masanko and White Cloud Mountain violated Section 4k(2)(i) of the Act, 7 U.S.C. § 6k(2)(i) (2012), and Regulations 3.12(a) and 5.3(a)(2)(ii), 17 C.F.R. §§ 3.12(a) and 5.3(a)(2)(ii) (2017).

*Based on a public submission,*

5. It further appears that that there is good cause to believe immediate and irreparable harm to the Court's ability to grant effective final relief to Defendants' customers in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by Defendants of their assets or destruction of records unless Defendants are immediately restrained and enjoined by order of this Court. This is a proper case for granting a statutory restraining order to preserve the status quo, protect customers from loss and damage, and enable the CFTC to fulfill its statutory duties. Accordingly, there is good cause to issue this Order.

6. Plaintiff's Motion for a Statutory Restraining Order On Notice is **GRANTED**.

**IT IS THEREFORE ORDERED:**

**TERMS OF THE RESTRAINING ORDER**

For purposes of this Order, the following definitions apply:

7. "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, whether individually or jointly, directly or indirectly controlled, and wherever located, including but not limited to: chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds mail or other deliveries, inventory, checks, notes, accounts (including, but not limited to, bank accounts and accounts at other financial institutions), credits, receivables, lines of credit, contracts (including spot, futures, options, or swaps contracts), insurance policies, and all cash, wherever located, whether in the United States or outside the United States.

8. "Document" is synonymous in meaning and equal in scope to the usage of the term in FED. R. CIV. P. 34(a) and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

9. "Defendants" shall mean and refers to Thomas Lanzana, individually and d/b/a Unique Forex, Nikolay Masanko, Blackbox Pulse LLC, and White Cloud Mountain LLC, any person insofar as they are acting in the capacity of an officer, agent servant, employee, or attorney of any of Defendants, and any person insofar as he or she is acting in concert or participation with any of Defendants who receives actual notice of this Order by personal service or otherwise.

**RELIEF GRANTED**

**I. ASSET FREEZE**

10. **IT IS HEREBY ORDERED** that Defendants are immediately restrained and enjoined from, directly or indirectly: transferring, removing, dissipating, concealing, assigning, pledging, encumbering, disbursing, converting, selling, or otherwise disposing of, in any manner, any funds, assets, or other property of any of Defendants, wherever located, including funds, assets, or other property held outside the United States, except as ordered by the Court. The assets affected by this Paragraph shall include both existing assets and assets acquired after the effective date of this Order, as well as accounts not specifically identified below.

11. **IT IS FURTHER ORDERED** that, pending further Order of this Court, any bank, financial or brokerage institution, entity, or person that holds, controls, or maintains custody of any accounts, funds, assets, or other property of any of Defendants, or has held, controlled, or maintained custody of any accounts, funds, assets, or other property of any of Defendants, or any of their customers, and who receives notice of this Order by any means, including facsimile, electronic mail, United Parcel Service, or Federal Express, shall:

A. prohibit Defendants and any other person from withdrawing, transferring, removing, dissipating, concealing, assigning, pledging, leasing, encumbering, disbursing,

converting, selling, or otherwise disposing of, in any manner, any such assets, except as directed by further order of the Court;

B. deny Defendants and any other person access to any safe deposit box that:

- i. is titled in the name of or maintained by any of Defendants, whether individually, jointly, or in any other capacity, including safe deposit boxes titled in the name of or maintained by nominees of any of Defendants; or
  - ii. otherwise subject to the control of or access by any of Defendants;
- and

C. cooperate with all reasonable requests of the CFTC relating to implementation of this Order, including producing records related to Defendants' accounts and trading activities.

## **II. PROHIBITION OF DESTRUCTION OF BOOKS AND RECORDS**

12. **IT IS FURTHER ORDERED** that Defendants are immediately restrained and enjoined from destroying, mutilating, concealing, altering, or disposing of any books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records, or other property of any of Defendants, including all such records concerning any of Defendants' solicitation and trading activities, wherever located.

## **III. ACCESS TO AND INSPECTION OF BUSINESS RECORDS**

13. **IT IS FURTHER ORDERED** that representatives of the CFTC be allowed immediately to inspect the books, records, and other documents of Defendants and their agents, including all such records concerning Defendants' solicitation and trading activities, wherever they may be situated and whether they are in the possession of any of Defendants or others, and

to copy said books, records, and other documents, either on or off the premises where they may be situated.

**IV. BOND NOT REQUIRED OF PLAINTIFF**

14. **IT IS FURTHER ORDERED THAT** pursuant to Section 6c(b) of the Act, 7 U.S.C. § 13a-1(b) (2012), no bond need be posted by the CFTC, which is an agency of the United States of America.

**V. SERVICE OF ORDER**

15. **IT IS FURTHER ORDERED** that copies of this Order ~~may be served by any~~ *shall as expeditiously as possible*  
*by personal service*  
~~means, including personal service,~~ *and* United Parcel Service, Federal Express, or other commercial *possible*  
overnight service, email, facsimile, Rule 5 of the Federal Rules of Civil Procedure, or Articles 2 through 10 of the Hague Convention, Service Abroad of Judicial and Extrajudicial Documents, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of any of Defendants or that may be subject to any provision of this Order. Joy McCormack, an employee of the CFTC, is hereby specially appointed to serve process, including of this Order and all other papers in this case. *Copies of all papers shall be provided to last known address of record!*

16. **IT IS FURTHER ORDERED** that the United States Marshals Service, in order to ensure the safety of CFTC representatives, is directed to assist the CFTC with service of process, including of the Summons and Complaint and all other papers in this case, as well as assist the CFTC with taking control and custody of the assets, records, and business premises of Defendants.

**VI. SERVICE ON THE CFTC**

17. **IT IS FURTHER ORDERED** that Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the CFTC by filing such pleadings or other materials electronically with the Court, or by delivering a copy to Stephanie

Reinhart, Senior Trial Attorney, Division of Enforcement, U.S. Commodity Futures Trading Commission, 525 W. Monroe St., Suite 1100, Chicago, Illinois, 60661 by email, personal delivery, or a courier service such as Federal Express or United Parcel Service and not by regular U.S. Postal Service mail due to potential delay resulting from heightened security and decontamination procedures applied to the CFTC's incoming mail.

**VII. FORCE AND EFFECT**

18. **IT IS FURTHER ORDERED** that this Order shall remain in full force and effect until further order of this Court upon application, notice, and an opportunity to be heard, and that this Court retains jurisdiction of this matter for all purposes.

*Defendants may have no shot home to dissolve any temporary restraints.*

**VIII. ORDER TO SHOW CAUSE, PRELIMINARY INJUNCTION HEARING**

19. **IT IS FURTHER ORDERED** that Defendants shall have up to and including 5:00 pm on \_\_\_\_\_, 2017 to file a memorandum in opposition to Plaintiff's Application for an Order to Show Cause Why a Preliminary Injunction Should Not Be Entered, and Other Relief, including any affidavits or declarations on which they rely.

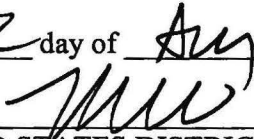
20. **IT IS FURTHER ORDERED** that Defendants shall appear before this Court on Sept. 20, 2017 at 2:00 pm, before the undersigned in the United States Courthouse, 50 Walnut Street, Newark, NJ 07101, in Courtroom 4A to show cause, if there be any, why an Order for Preliminary Injunction should not be entered against Defendants to prohibit further violations of the Act and Regulations and why the other relief requested should not be granted, pending trial on the merits of this action. Counsel for Plaintiff and Defendants

shall appear in person, and telephonic appearances may be permitted. *on written request.*

24. This matter is set for a status hearing by ~~telephone~~ *in person* conference on Sept 6, 2017 at 11:00 am to permit the parties to advise the court as to the status of the matter.

*The court will address whether temporary restraints shall be continued or dissolved. Plaintiff shall file a status letter by Sept 5 addressing same & return.*

**DONE and ORDERED** in Newark, New Jersey this 22 day of Aug, 2017.

  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE