



2. Venue lies properly within this District pursuant to Section 6c(e) of the Act, 7 U.S.C. §13a-1(e) (2012).

3. There is good cause to believe that Maverick Asset Management, LLC (“MAM”), Rodney Scott Phelps (“Phelps”) and Jason T. Castenir (“Castenir”) (collectively, “Defendants”), have engaged in, are engaging in and are about to engage in acts in violation of 7 U.S.C. §§ 6b(a)(1)(A)-(C), 6o(1), 6m(1) and 6k(2) (2012), and 17 C.F.R. §§ 4.20(b)-(c) (2014).

4. From approximately March 1, 2013 through the present (the “Relevant Period”), Defendants Maverick Asset Management, LLC (“MAM”), by and through its employees Rodney Scott Phelps (“Phelps”) and Jason T. Castenir (“Castenir”), and Phelps and Castenir directly (collectively, “Defendants”) defrauded at least two members of the public (“pool participants”) out of approximately \$1.2 million in connection with pooled investments in exchange-traded commodity futures contracts. During the Relevant Period, Defendants misappropriated over \$800,000 of their pool participants’ funds, made material misrepresentations and omissions to existing and prospective pool participants, provided pool participants with false account statements, and operated the pool illegally. There is good cause to believe that immediate and irreparable damage to the Court’s ability to grant effective final relief for pool participants in the form of monetary redress will occur from the sale, transfer, assignment, or other

disposition by Defendant of assets or records unless Defendants are immediately restrained and enjoined by Order of the Court.

5. There is good cause for the Court to freeze assets owned, controlled, managed, or held by or on behalf of, or for the benefit of Defendants, including assets in accounts held by Maverick Investment Holdings, LLC (“MIH”).

6. There is good cause for entry of an order prohibiting Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendants, including any successor thereof, from destroying records and/or denying agents of the Commission access to inspect and copy records to ensure that Commission representatives have immediate and complete access to those books and records.

7. There is good cause for the Plaintiff to conduct expedited discovery in order to determine the full extent of Defendants’ alleged wrongdoing, locate Defendants’ other pool participants, identify pool participant funds and other assets of Defendants and clarify the source and whereabouts of various funds.

8. Absent the entry of this statutory restraining order, Defendants are likely to dissipate or transfer assets and destroy business records.

9. This is a proper case for granting an *ex parte* statutory restraining order to preserve the *status quo*, protect pool participants from loss and damage,

and enable the Commission to fulfill its statutory duties, therefore the Court orders as follows:

### **DEFINITIONS**

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

10. The term “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.

11. The term, “document” is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure (“Fed. R. Civ. P.”) 34(a), and includes, but is not limited to, all writings or printed matter of any kind, including without limitation: records, correspondence, memoranda, notes, rolodexes, address books, diaries, statistics, e-mail, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice or intra-office communications,

telephone message slips, offers, notations of conversations, bulletins, drawings, plans, computer printouts, computer input or output, teletypes, facsimiles, invoices, worksheets, ledger books, books of accounts, and all drafts, alterations, modifications, changes and amendments of any of the foregoing. The term “document” also includes graphs, charts, photographs, phonographic record, audio and video recordings, computer records, and other data compilations from which information can be obtained or translated, if necessary, through detection devices into reasonable usable form. The term “document” also refers to each and every document in your actual or constructive possession, including but not limited to: (i) all documents within your custody or control of any of your present or former agents, employers, employees, partners, and (ii) all documents which you have a legal or equitable right to obtain from another person. A draft or non-identical copy is a separate document within the meaning of the term. A document also includes the file and folder tabs associated with each original and copy.

12. “Defendants” refers to MAM, Phelps, Castenir, and any person insofar as he or she is acting in the capacity of an officer, agent servant, employee, or attorney of any Defendant 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 any Defendant. Defendants also refers to any d/b/a, successor,

affiliate, subsidiary, or other entity owned, controlled, managed, or held by, on behalf of, or for the benefit of MAM, Phelps or Castenir.

## **RELIEF GRANTED**

### **I.**

#### **Asset Freeze Order Prohibiting the Transfer, Removal, Dissipation, and Disposal of Assets**

13. **IT IS HEREBY ORDERED** that Defendants and their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with them, including any successor thereof, and persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, are immediately restrained and enjoined, except as otherwise ordered by this Court, from directly or indirectly: transferring, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing of any assets, wherever located, including assets of MIH, LLC and including Defendants' assets held outside the United States.

14. Defendants are restrained and enjoined from directly or indirectly opening or causing to be opened any safe deposit boxes titled in the name of, or subject to, access by any Defendant.

15. The assets affected by this Order shall include both existing assets and assets acquired after the effective date of this Order.

## II.

### Directives to Financial Institutions and Others

16. **IT IS FURTHER ORDERED that**, 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 Defendants, or has held, controlled, or maintained custody of any such account or asset of Defendant at any time since March 1, 2013 shall:

- a. Prohibit Defendants and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of Defendants' assets, except as directed by further order of the Court;
- b. Deny Defendants and all other persons access to any safe deposit box that is: (a) owned, controlled, managed, or held by, on behalf of, or for the benefit of any Defendant, either individually or jointly; or (b) otherwise subject to access by Defendants;
- c. Provide 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 account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of each Defendant, either individually or jointly; (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 owned, controlled, managed, or held by, on behalf of, or for the benefit of Defendants, either individually or jointly, or is otherwise subject to access by any Defendant;

- 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; and

- e. Cooperate with all reasonable requests of the Commission relating to implementation of this Order, including transferring funds at the Commission's direction and producing records related to Defendants' accounts.

### **III.**

#### **Maintenance of and Access to Business Records**

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

17. Defendants and all persons or entities who receive notice of this Order by personal service or otherwise, are restrained 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 Defendants.

### **IV.**

#### **Bond Not Required of Plaintiff**

##### **IT IS FURTHER ORDERED that:**

18. As Plaintiff Commission is an agency of the United States of America which has made a proper showing under Section 6c(b), 7 U.S.C. § 13a-

1(b) (2012), this restraining order is granted without bond. Accordingly, the Commission need not post a bond.

**V.**

**Inspection and Copying of Books and Records**

**IT IS FURTHER ORDERED that:**

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

20. Defendants shall, within 24 hours after being served with this Order, cause to be prepared and delivered to the Commission, a detailed and complete schedule of all passwords and identification (ID) numbers for all websites and all accounts at any bank, financial institution or brokerage firm (including any introducing broker or futures commission merchant) operated by or to which Defendants have access.

21. Defendants shall, within 24 hours after being served with this Order, cause to be prepared and delivered to the Commission, a detailed and complete schedule of all desk top computers, laptop computers and or mobile devices owned

and/or used by him in connection with their business. The schedules required by this section shall include at a minimum the make, model and description of each, along with the location, the name of the person primarily assigned to use the computer and/or mobile communication device, and all passwords necessary to access and use the software contained on the computer and/or mobile communication device. The Commission shall be authorized to make an electronic, digital or hard copy of all of the data contained on the computer(s) and/or mobile communication device(s).

## **VI.**

### **Service of Order**

#### **IT IS FURTHER ORDERED that:**

22. Copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of Defendants, or that may be subject to any provision of this Order.

23. Any person authorized by Fed. R. Civ. P. 4 may effect service of the Summons, this Order and all other documents pertaining to this case. In addition, Commission representatives Glenn Chernigoff, Michael Loconte, Rick Glaser and representatives of the Federal Bureau of Investigation are specially appointed to

effect service of the Summons, this Order and all other documents pertaining to this case.

24. Representatives of the Federal Bureau of Investigation and the U.S. Marshal Service are authorized to accompany and assist the Commission's representatives outside and inside Defendants' premises, as well as secure the premises, in the service and execution of this Order and to undertake such efforts as are reasonably necessary to ensure that the Commission's representatives have an unimpeded right to inspect and copy books, records and documents as set forth above.

## VII.

### **Expedited Discovery**

#### **IT IS FURTHER ORDERED that:**

25. Notwithstanding the prohibition upon discovery before the early meeting of counsel pursuant to Fed. R. Civ. P. 26(f), in accordance with Fed. R. Civ. P. 26(d), the Commission is granted leave to conduct expedited discovery, at any time after service of this Order, to take the deposition of and demand the production of documents from any person or entity for the purpose of discovering the nature, location, status, and extent of assets of Defendants, and the location of documents reflecting the business transactions of Defendants; forty-eight (48) hours' notice, personally, by facsimile or by electronic mail, shall be deemed

sufficient for any such deposition and five (5) days' notice, personally, by facsimile or by electronic mail, shall be deemed sufficient for the production of any such documents.

26. The Commission may conduct expedited discovery to enable the Commission to fulfill its statutory duties and protect investors from further loss or damage. This expedited discovery will allow the Commission to determine the full extent of Defendants' alleged wrongdoing (including, but not limited to, the possible involvement of others), locate Defendants' other pool participants, identify pool participant funds and other of the Assets, and clarify the sources of various funds.

27. No deposition taken pursuant to this section shall count towards the ten-deposition limit set forth in Federal Rule of Civil Procedure 30(a)(2)(A)(i).

## VIII.

### Service on the Commission

#### **IT IS FURTHER ORDERED that:**

28. Defendants shall comply with all electronic filing rules and requirements of the U.S. District Court for the Middle District of Tennessee and shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Glenn Chernigoff, Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission,

1155 21st Street, N.W., Washington, D.C. 20581, by electronic filing, e-mail, personal delivery or courier service (such as Federal Express or United Parcel Service) and not by regular mail due to potential delay resulting from heightened security and decontamination procedures applicable to the Commission's regular mail.

**IX.**

**Order to Show Cause**

**IT IS FURTHER ORDERED that:**

30. Defendants shall appear before this Court on the 8<sup>th</sup> day of September, 2015, at 11:15, before the Honorable Kevin Stamp, Courtroom A826, at the United States Courthouse for the Middle District of Tennessee, located at 801 Broadway, Nashville, Tennessee 37203 to respond to the Commission's Motion for a Preliminary Injunction.

31. Should any party wish to file a memorandum of law or other papers in opposition to Plaintiff's Motion for a Preliminary Injunction, all papers shall be served and filed on or before Wed, Sept 2, 2015. Any reply papers shall be served and filed on or before Friday, Sept 4, 2015. Service of all papers shall be by electronic mail, facsimile, or personal service.

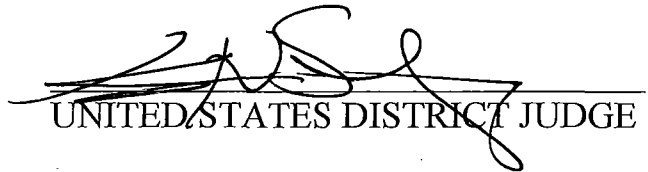
X.

**Force and Effect**

**IT IS FURTHER ORDERED that:**

32. 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.

**IT SO ORDERED**, at Nashville, Tennessee on this 25<sup>th</sup> day of August, 2015 at 11:15 a.m./p.m.

  
UNITED STATES DISTRICT JUDGE