

1 Having read the Complaint for Injunctive and Other Equitable Relief and
2 Penalties Under the Commodity Exchange Act (“Complaint”) filed by Plaintiff
3 Commodity Futures Trading Commission (“CFTC” or “Commission”), Plaintiff’s
4 Application for *Ex Parte* Statutory Restraining Order, Plaintiff’s Memorandum of
5 Points and Authorities in Support of Its Application for *Ex Parte* Statutory
6 Restraining Order and Motion for Order of Preliminary Injunction
7 (“Memorandum”), and Appendix to Plaintiff’s Memorandum of Points and
8 Authorities in Support of Its Application for *Ex Parte* Statutory Restraining Order
9 and Motion for Order of Preliminary Injunction,
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13 **THE COURT FINDS:**

14 1. This Court has jurisdiction over the parties and subject matter of this
15 action. Section 6c of the Commodity Exchange Act (“Act”), 7 U.S.C. §13a-1(a)
16 (2012), authorizes this Court to enter an *ex parte* statutory restraining order against
17 Defendant Ralph Metters (“Metters”).
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19 2. Venue properly lies with this Court pursuant to Section 6c(e) of the
20 Act, 7 U.S.C. § 13a-1(e).
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22 3. It appears that there is good cause to believe Metters has engaged, is
23 engaging, and/or is about to engage in violations of the Act. Specifically, it
24 appears that Metters has violated Section 4b(a)(2)(A) and (C) of the Act, 7 U.S.C.
25 § 6b(a)(2)(A), (C) (2012).
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1 contracts including spot and futures contracts, insurance policies and all cash,
2 wherever located.

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4 7. "Document" is synonymous in meaning and equal in scope to the
5 usage of the term in Rule 34(a) of the Federal Rules of Civil Procedure and
6 includes writings, drawings, graphs, charts, photographs, audio and video
7 recordings, computer records and other data compilations from which information
8 can be obtained and translated through detection devices into reasonably usable
9 form. A draft or non-identical copy is a separate document within the meaning of
10 the term.
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13 8. "Defendant" refers to Ralph Metters and well as any persons insofar
14 as they are acting in the capacity of agents, servants, successors, employees,
15 assigns and attorneys or Metters, and all persons insofar as they are acting in active
16 concert or participation with Defendant who receive actual notice of this Order by
17 personal service or otherwise, including electronic mail, facsimile, United Parcel
18 Service, or Federal Express.
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21 **RELIEF GRANTED**

22 **STATUTORY RESTRAINING ORDER**

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24 **I. ASSET FREEZE**

25 **IT IS ORDERED** that Defendant, all persons insofar as they are acting in
26 the capacity of Defendant's agents, servants, successors, employees, assigns, and
27 attorneys, and all persons insofar as they are acting in active concert or
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1 participation with Defendant who receive actual notice of this Order by personal
2 service or otherwise, including email, facsimile, and UPS or other commercial
3 overnight service, are restrained from directly or indirectly withdrawing,
4 transferring, removing, dissipating, concealing, or disposing of, in any manner, any
5 funds, assets, or other property, wherever situated, including, but not limited to, all
6 funds, personal property, money, or securities held in safes or safety deposit boxes
7 and all funds on deposit in any financial or brokerage institution, futures
8 commission merchant, bank, or savings and loan account held by, under the actual
9 or constructive control of, or in the name of Defendant. The assets affected by this
10 paragraph shall include both existing assets and assets acquired after the effective
11 date of this Order.
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16 **IT IS FURTHER ORDERED** that, pending further order of this Court, any
17 bank, financial or brokerage institution, entity, or person that holds, controls, or
18 maintains custody of any funds, assets, or other property of Defendant, or has held,
19 controlled, or maintained custody of any funds, assets, or other property of
20 Defendant, and who receives notice of this Order by any means, including
21 facsimile, electronic mail, United Parcel Service, or Federal Express, shall:
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24 A. **Immediately upon receipt of a copy of this Order** prohibit
25 Defendant and any other person from withdrawing, removing, assigning,
26 transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or
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1 otherwise disposing of any such assets, except as directed by further order of the
2 Court;

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4 B. **Immediately upon receipt of a copy of this Order** deny Defendant
5 and all other persons access to any safe deposit box that is:

6 1. titled in the name of or maintained by Defendant, either
7 individually, jointly, or in any other capacity, including safe deposit boxes
8 titled in the name of or maintained by nominees of Defendant; or

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10 2. otherwise subject to the control of or access by Defendant; and

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12 C. cooperate with all reasonable requests of the CFTC relating to
13 implementation of this Order, including producing records related to Defendant's
14 accounts and Defendant's businesses.

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16 **II. PROHIBITION ON DESTRUCTION OF BOOKS AND RECORDS**

17 **IT IS FURTHER ORDERED** that Defendant, all persons insofar as they
18 are acting in the capacity of Defendant's agents, servants, successors, employees,
19 assigns, and attorneys, and all persons insofar as they are acting in active concert
20 or participation with Defendant who receive actual notice of this Order by personal
21 service or otherwise, including email, facsimile, and UPS or other commercial
22 overnight service, are restrained from directly or indirectly refusing to permit
23 authorized representatives of the Commission to inspect, when and as reasonably
24 requested, any books and records, documents, correspondence, brochures,
25 manuals, electronically stored data, tape records, or other property of Defendant,
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1 wherever located, including, but not limited to, all such records concerning
2 Defendant's business operations and Defendant's business or personal finances.
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4 **III. ACCESS TO AND INSPECTION OF BOOKS AND RECORDS**

5 **IT IS FURTHER ORDERED** that representatives of the CFTC be allowed
6 immediately to inspect the books, records, and other documents of Defendant and
7 his agents including, but not limited to, electronically stored data, tape recordings,
8 and computer discs, wherever they may be situated and whether they are in the
9 possession of Defendant or others, and to copy said books, records, and other
10 documents, either on or off the premises where they may be situated.
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13 **IV. SERVICE OF ORDER AND ASSISTANCE OF U.S. MARSHALS**
14 **SERVICE**
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16 **IT IS FURTHER ORDERED** that copies of this Order may be served by
17 any means, including personal service, United Parcel Service, Federal Express, or
18 other commercial overnight service, email, facsimile, those permitted by Rule 5 of
19 the Federal Rules of Civil Procedure, or Articles 2 through 10 of the Hague
20 Convention, Service Abroad of Judicial and Extrajudicial Documents, upon any
21 financial institution or other entity or person that may have possession, custody, or
22 control of any documents or assets of Defendant, or that may be subject to any
23 provision of this Order. Jennifer E. Smiley, Ava Gould, and Mary Elizabeth Spear,
24 all employees of the CFTC, are hereby specially appointed to serve process,
25 including of this Order and all other papers in this case.
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1 **IT IS FURTHER ORDERED** that the United States Marshals Service is
2 directed to assist the CFTC with service of process, including of the Summons and
3 Complaint and all other papers in this case, as well as assist the CFTC with taking
4 control and custody of the assets, books and records, and business premises of
5 Defendant.
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8 **V. BOND NOT REQUIRED OF PLAINTIFF**

9 **IT IS FURTHER ORDERED** that pursuant to Section 6c(b) of the Act, 7
10 U.S.C. § 13a-1(b), no bond need be posted by the Commission, which is an agency
11 of the United States of America.
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13 **VI. SERVICE ON THE COMMISSION**

14 **IT IS FURTHER ORDERED** that Defendant shall serve all pleadings,
15 correspondence, notices required by this Order, and other materials on the Plaintiff
16 by delivering a copy to Jennifer E. Smiley, Senior Trial Attorney, Division of
17 Enforcement, Commodity Futures Trading Commission, 525 W. Monroe St., Suite
18 1100, Chicago, Illinois 60661 and/or by filing such pleadings or other materials
19 electronically with the Court.
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22 **VII. COURT MAINTAINS JURISDICTION**

23 **IT IS FURTHER ORDERED** that this Order shall remain in full force and
24 effect until further Order of this Court upon application, notice, and an opportunity
25 to be heard, and that this Court retains` jurisdiction over this matter for all
26 purposes.
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VIII. FURTHER COURT HEARINGS

IT IS FURTHER ORDERED that this matter is set for a status hearing on

R September 18, 2014, at 10:00 AM o'clock, by [appearance of parties] [~~telephone conference call~~].

IT IS FURTHER ORDERED that should any party wish to file a

memorandum of law or other papers in opposition to the Motion for a Preliminary

Injunction, all papers shall be filed on or before September 10, 2014 and

R served no later than September 11, 2014

IT IS FURTHER ORDERED that Plaintiff's Motion for Order of

Preliminary Injunction is set for hearing on September 18, 2014 10 AM

IT IS SO ORDERED.



U.S. District Court Judge

R Issued: August 27, 2014 at 11:00 o'clock am ~~pm~~