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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

U.S. COMMODITY FUTURES)	
TRADING COMMISSION)	
)	
Plaintiff,)	Civil No.10-cv-00493
)	
vs.)	Honorable Charles R. Norgle, Sr.
)	
JAY C. NOLAN,)	Magistrate Judge Sidney I. Schenkier
LODGE CAPITAL GROUP, LLC,)	
)	
Defendants.)	

[PROPOSED] STATUTORY RESTRAINING ORDER

This Court having read the Complaint for Injunctive and Other Equitable Relief, the Motion for Entry of a Statutory Restraining Order, the brief in support thereof, the Declaration of Michael M. Mullen, as well as the exhibits, and all other papers filed herein by the Plaintiff, Commodity Futures Trading Commission ("Commission" or "CFTC"),

THE COURT FINDS:

1. The Court has jurisdiction over the subject matter.
2. Section 6c of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1 (2006), permits this Court to enter a statutory restraining order ("SRO").
3. It appears that there is good cause to believe that Defendants Jay C. Nolan ("Nolan") and Lodge Capital Group, LLC ("Lodge Capital") (collectively "Defendants"), have engaged, are engaging in and are about to engage in violations of Sections 4b(a)(2)(i)-(iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii) (2006), Sections 4b(a)(1)(A)-(C) of the Act as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC

Reauthorization Act of 2008 ("CRA")), §§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. § 6b(a)(1)(A)-(C), and 4o(1) of the Act, 7 U.S.C. § 6o(1) (2006). There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for customers in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by the Defendants of their assets or destruction of records unless the Defendants are immediately restrained and enjoined by Order of this Court and, accordingly, there is good cause to issue this order.

4. It further appears to the satisfaction of the Court that this is a proper case for granting a statutory restraining order to preserve the status quo and to protect public investors from further loss and damage.

ORDER

DEFINITIONS

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

5. "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 including bank accounts and accounts at financial institutions, credits, receivables, lines of credit, contracts including spot and futures contracts, insurance policies, and all cash, wherever located.

6. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 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, 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.

7. "Defendants" means Nolan and Lodge Capital and any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee or attorney of Defendants, and any person who receives actual notice of this Order by personal service or otherwise, including Federal Express and facsimile, insofar as he or she is acting in concert or participation with Defendants.

RELIEF GRANTED

STATUTORY RESTRAINING ORDER

I. ASSET FREEZE

IT IS ORDERED that Defendants are restrained and enjoined from directly or indirectly withdrawing, transferring, removing, dissipating, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, converting, or otherwise disposing of any funds, assets or other property, wherever located, including funds, property or assets 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.

IT IS FURTHER ORDERED that, pending further Order of this Court, any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any funds, assets or other property of the Defendants, or has held, controlled, or maintained custody of any funds, assets or other property of the Defendants, and who receives notice of this order by any means, including facsimile, electronic mail, and Federal Express, shall:

A. Prohibit Defendants and any other person from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such 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:

1. titled in the name of the Defendants, either individually or jointly; or
2. otherwise subject to access by the Defendants; and

II. PROHIBITION OF DESTRUCTION OF BOOKS AND RECORDS

IT IS FURTHER ORDERED that the Defendants and all persons or entities who receive notice of this Order by personal service or otherwise, including facsimile and Federal Express, 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 Defendants.

III. ACCESS TO AND INSPECTION OF BOOKS AND RECORDS

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

IV. SERVICE OF ORDER AND ASSISTANCE OF U.S. MARSHALL'S SERVICE

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission and Federal Express, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of the Defendants, or that may be subject to any provision of this Order. Mary Elizabeth Spear and

Venice Bickham, all employees of the CFTC, are hereby specially appointed to serve process, including this Order and all other papers in this cause.

IT IS FURTHER ORDERED that the United States Marshals Service is directed to assist the Commission with service of process, including the summons and complaint, and all other papers in this case as well as assist the Commission with taking control and custody of the assets, records and business premises of the Defendants.

V. SERVICE ON THE COMMISSION

IT IS FURTHER ORDERED that the Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Diane M. Romaniuk, Senior Trial Attorney, or Ava M. Gould, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

VI. NO BOND

IT IS FURTHER ORDERED that Plaintiff is an agency of the United States of America and, accordingly, no bond need be posted by the Commission.

VII. COURT MAINTAINS JURISDICTION

IT IS FURTHER ORDERED that this Statutory Restraining 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.


VIII. FURTHER COURT HEARINGS

IT IS FURTHER ORDERED that this matter is set for a status hearing on _____, 2010, at _____ o'clock, by [appearance of parties] [telephone conference call to chambers].

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 _____, 2010 and served no later than _____.

IT IS FURTHER ORDERED that Plaintiff's Motion for a Preliminary Injunction is set for hearing on 2/9, 2010, at 10:00 .m., at 219 South Dearborn Street, Chicago, Illinois 60604.

Date: 1-26-10


Charles R. Norgle, Sr.
United States District Judge