

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

Case No: 6:23-cv-1445-WWB-DCI

UNDER SEAL

RENE LARRALDE, JUAN PABLO  
VALCARCE, BRIAN EARLY, ALISHA  
ANN KINGREY, and FUNDSZ,

Defendants.

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**STATUTORY RESTRAINING ORDER**

THIS CAUSE is before the Court on the Commodity Futures Trading Commission’s (“**CFTC**”) Emergency Motion for an *Ex Parte* Statutory Restraining Order and Preliminary Injunction (Doc. 5). The CFTC has filed its Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief (“**Complaint**,” Doc. 1) pursuant to the Commodity Exchange Act and CFTC Regulations, and has moved, pursuant to 7 U.S.C. § 13a-1, for an *ex parte* Statutory Restraining Order (“**SRO**”) and appointment of a temporary Receiver.

“Upon a proper showing,” a district court may issue a statutory restraining order “which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property” and appoints a temporary receiver without bond. 7 U.S.C. § 13a-1(a)–(b). “A prima facie

case of illegality is a proper showing.” *U.S. Commodity Futures Trading Comm’n v. Hunter Wise Commodities, LLC*, 749 F.3d 967, 974 (11th Cir. 2014) (quotation omitted). Because the CFTC is not seeking an injunction against “future violations” in this specific motion, the CFTC is not required at this time to show a reasonable likelihood of such violations. *See id.* (“[W]here the [CFTC] seeks to enjoin future violations, it must also show a reasonable likelihood of future violations in addition to a prima facie case of illegality.”).

The Court, having considered the Complaint, the *ex parte* Motion for SRO, and all available declarations, exhibits, and the memorandum of points and authorities attached in support, and being otherwise advised, **GRANTS** the CFTC’s Motion for SRO (Doc. 5) and **FINDS** and **ORDERS** as follows:

#### **I. FINDINGS**

A. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over all parties hereto and that venue in this district is proper.

B. The CFTC has made a prima facie showing that since October 2020, Defendants Rene Larralde, Juan Pablo Valcarce, Brian Early, Alisha Ann Kingrey, and Fundsz have made material misrepresentations regarding the use of participant funds, expected investment returns, and historical investment returns. Based on this conduct, there is good cause to believe that Defendants, have, are, or are about to engage in conduct in violation of 7 U.S.C. § 9(1) and 17 C.F.R. § 180.1(a)(1)–(3).

C. There is also 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 or other

redress will occur from the withdrawal, transfer, removal, dissipation, or other disposition of funds, assets, or other property, or the destruction, alteration, or disposition of books and records and other documents by Defendants unless Defendants are immediately restrained and enjoined by Order of the Court. The Court finds good cause for the temporary relief granted in this Order.

D. No bond is required for the issuance of this Order pursuant to 7 U.S.C. § 13a-1(b).

## II. DEFINITIONS

For the purpose of this Order, the following definitions shall apply:

A. **“Assets”** encompasses 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 funds, wherever located, whether in the United States or outside the United States.

B. **“Defendants”** means Rene Larralde, Juan Pablo Valcarce, Brian Early, Alisha Ann Kingrey, and Fundsz, individually, collectively, or in any combination.

C. **“Records”** encompasses “documents” and “electronically stored information” as those terms are used in Federal Rule of Civil Procedure 34(a), and includes, but is not limited to, all writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or other data compilations—stored in any medium from which information can be obtained or translated, if necessary, into reasonable usable form. The term

“records” also refers to each and every such item in Defendants’ actual or constructive possession, including but not limited to: (1) all such items within the custody or control of any agents, employers, employees, or partners of the Defendants; and (2) all items which Defendants have a legal or equitable right to obtain from another person. A draft or non-identical copy is a separate item within the meaning of the term. A record also includes the file and folder tabs associated with each original and copy.

### **III. ASSET FREEZE**

Defendants are immediately restrained and enjoined, except as otherwise ordered by this Court, from directly or indirectly withdrawing, transferring, removing, dissipating, or otherwise disposing of any assets, wherever located, including Defendants’ assets held outside the United States, except as provided otherwise in this Order.

Notwithstanding the provisions of this Section, at the request of the Temporary Receiver, Defendants and any other person who has possession, custody, or control of any of Defendants’ funds, assets, or other property shall transfer possession of all assets subject to this Order to the Temporary Receiver in accordance with this Order.

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

### **IV. MAINTENANCE OF RECORDS**

Defendants are restrained from directly or indirectly destroying, altering, or disposing of in any manner any records that relate or refer to the business activities or business or personal finances of any Defendant.

Representatives of the CFTC shall be immediately allowed to inspect any records that, in part or in whole, contain, relate, or refer to the business activities or business or

personal finances of Defendants, including, but not limited to, both hard-copy documents and electronically stored information, wherever they may be situated and whether they are in the possession of Defendants or others.

To ensure preservation and to facilitate meaningful inspection and review of these records, Defendants shall allow representatives of the CFTC to make copies of these records, including complete forensic images of any devices containing any such records, and if on-site copying of these records or forensic imaging of these devices is not practicable, representatives may make such copies or forensic images off-site. After any such off-site copying or forensic imaging, the CFTC shall promptly return the original documents and devices upon which electronic information is stored.

Absent a valid assertion of their respective rights against self-incrimination under the Fifth Amendment, Defendants shall promptly provide the CFTC with:

- A. The location of all records relating or referring to the business activities and business and personal finances of Defendants;
- B. All identification numbers and other identifying information for websites, cloud storage services, e-mail and smartphone accounts, online chat and messaging services, all digital asset wallet information including the private keys, and all accounts at any bank, financial institution, digital asset platform or exchange, or brokerage firm (including any introducing broker or futures commission merchant) owned, controlled, or operated by Defendants, or to which Defendants have access; and
- C. All passwords to, and the location, make and model of, all computers and mobile electronic devices owned or used by Defendants in connection with their business activities and business and personal finances.

When inspecting and reviewing records and contents of forensic images that are subject to this Order, including those contained on computers and other devices, the CFTC shall undertake reasonable measures to prevent review of the Defendants' privileged communications and other nonbusiness, nonfinancial materials by the CFTC's attorneys and other staff who are part of the litigation team in this matter. Moreover, Defendants (or their counsel) shall promptly contact the CFTC's counsel to assert any claims of privilege or other legal objections relating to the inspection and review of any records or contents of forensic images that are subject to this Order and promptly cooperate with the CFTC's counsel to develop reasonable protocols to isolate and prevent disclosure of claimed privileged or other nonbusiness, nonfinancial materials to the CFTC's attorneys and other staff who are part of the litigation team in this matter. However, nothing herein shall excuse Defendants from full and immediate compliance with this Court's Order permitting the CFTC to inspect and review the records and contents of forensic images which relate to Defendants' business activities and their business and personal finances.

**V. NOTICE TO FINANCIAL INSTITUTIONS AND OTHERS**

Pending further Order of this Court, any financial or brokerage institution, business entity, or person that receives actual notice of this Order and holds, controls, or maintains custody of any account or asset or other property of Defendants shall not permit Defendants or other persons to withdraw, transfer, remove, dissipate, or otherwise dispose of any of Defendants' assets, except by the Temporary Receiver as set forth herein or except as directed by further order of the Court.

Any financial or brokerage institution, business entity, or person that receives notice of this Order by personal service or otherwise shall not, directly or indirectly destroy, alter, or dispose of, in any manner, any records relating to the business activities and business and personal finances of any Defendant.

Any such financial or brokerage institution, business entity, or person that receives actual notice of this Order and 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 any Defendant, or has held, controlled, or maintained custody of any such account or asset of any Defendant at any time since October 1, 2020, shall not deny a request by the CFTC to inspect all records pertaining to every account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of Defendants, 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. As an alternative to allowing inspection of records, a financial or brokerage institution, business entity, or other person may provide copies of records requested by the Commission.

Furthermore, any such financial or brokerage institution, business entity, or person that receives actual notice of this Order shall:

A. Within ten business days of a request by the Temporary Receiver, or such longer period specified by the Temporary Receiver, provide the Temporary Receiver with copies of all records pertaining to any account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of Defendants, either individually or jointly, 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, safe deposit box logs, all digital asset wallet information including the private keys; and

B. Cooperate with all reasonable requests of the Temporary Receiver relating to implementation of this Order, including transferring Defendants' funds at the Temporary Receiver's direction, and producing records related to business activities or business or personal finances of Defendants to the Temporary Receiver.

## **VI. APPOINTMENT OF TEMPORARY RECEIVER**

Melanie Damian is appointed Temporary Receiver, with the full powers of an equity receiver for Defendant Funds and over all assets of each individual Defendant and their affiliates and subsidiaries owned or controlled by Defendants (hereinafter referred to as the "**Receivership Defendants**"), and of all the funds, properties, premises, accounts, income, now or hereafter due or owing to the Receivership Defendants, and other assets directly or indirectly owned, beneficially or otherwise, by the Receivership Defendants (hereinafter, the "**Receivership Estate**"). The Temporary Receiver shall be the agent of this Court in acting as Temporary Receiver under this Order.

The Temporary Receiver is directed and authorized to accomplish the following:

A. Assume full control of the Receivership Defendants by removing Defendants Larralde, Valcarce, Early, and Kingrey, and any officer, independent contractor, employee, or agent of the Receivership Defendants, from control and management of the affairs of the Receivership Defendants as the Temporary Receiver deems appropriate;



B. Take exclusive custody, control, and possession of the Receivership Estate, which includes but is not limited to complete authority to sue for, collect, receive, and take possession of all goods, chattels, rights, credits, money, effects, land, leases, books, records, work papers, and records of accounts, including electronically-stored information, contracts, financial records, funds on hand in banks and other financial institutions, and other papers and records of the Receivership Defendants and customers or clients of any of Receivership Defendants' business activities whose interests are now held by, or under the direction, possession, custody, or control of, the Receivership Defendants;

C. Take all steps necessary to secure the business and other premises under the control of the Receivership Defendants;

D. Take all steps necessary to assume control of all websites, e-mails, group mail platforms and social media accounts used by the Receivership Defendants to promote Fundsz, including but not limited to the fundsz.com website, the Fundsz Facebook accounts and group, any Twitter or Instagram accounts and groups, the Fundsz Telegram group, and all YouTube and Google accounts controlled by Defendants to disseminate Fundsz marketing materials;

E. Perform all acts necessary, including the suspension of operations, to conserve, hold, manage, and preserve the value of the Receivership Estate in order to prevent an irreparable loss, damage, or injury to any customers or clients of any of Receivership Defendants' business activities;

F. Prevent the withdrawal or misapplication of assets entrusted to the Receivership Defendants, and otherwise protect the interests of any customers or clients of any of Receivership Defendants' business activities;

G. Manage and administer the Receivership Defendant Funds, including any affiliates or subsidiaries, and the Receivership Estate by performing all acts incidental thereto that the Temporary Receiver deems appropriate, including hiring or dismissing any and all personnel, suspending operations, and entering into agreements, including but not limited to: (1) the retention and employment of investigators, attorneys, accountants, appraisers, and other independent contractors and technical specialists of the Temporary Receiver's choice, including without limitation members and employees of the Temporary Receiver's firm, to assist, advise, and represent the Temporary Receiver; and (2) the movement and storage of any equipment, furniture, records, files, or other physical property of the Receivership Defendants;

H. Collect all funds owed to the Receivership Defendants;

I. Take immediate possession of all real property of the Receivership Defendants, wherever located, including but not limited to all ownership and leasehold interests and fixtures. Upon receiving actual notice of this Order by personal service, facsimile transmission, or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are (without the express written permission of the Temporary Receiver) prohibited from: (1) entering such premises; (2) removing anything from such premises; or, (3) destroying, concealing, or erasing anything on such premises;

J. As necessary to execute the express and implied terms of this Order, the Temporary Receiver is authorized to change door locks to the premises described above. The Temporary Receiver shall have exclusive control of the keys. Defendants, or any other person acting or purporting to act on their behalf, are ordered not to change the locks in any manner, not to have duplicate keys made, and not to have keys in their possession during the term of the receivership;

K. Initiate, defend, compromise, adjust, intervene in, dispose of, or become a party to, any actions or proceedings in state, federal, or foreign court that the Temporary Receiver deems necessary and advisable to preserve or increase the value of the Receivership Estate or that the Temporary Receiver deems necessary and advisable to carry out the Temporary Receiver's mandate under this Order;

L. Issue subpoenas to obtain records pertaining to the Receivership and conduct discovery in this action on behalf of the Receivership Estate;

M. Open one or more bank accounts and deposit all funds of the Receivership Estate in such designated accounts and make all payments and disbursements from the Receivership Estate from such accounts;

N. Make payments and disbursements from the Receivership Estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order, provided that the Temporary Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership Defendants prior to the date of entry of this Order, except for payments that the Temporary Receiver deems necessary or advisable to secure the Receivership Estate from immediate and irreparable loss;

O. Create and maintain a website for communications with investors in Fundsz and update the website as appropriate to provide information to investors regarding the activities and condition of the Receivership Estate; and

P. Maintain written accounts itemizing receipts and expenditures, describing properties held or managed, and naming the depositories holding funds or other assets of the Receivership Estate; make such written accounts and supporting documentation available to the Commission for inspection; and, within sixty days of being appointed and periodically thereafter, as directed by the Court, file with the Court and serve on the parties a report summarizing efforts to marshal and collect assets, administer the Receivership Estate, and otherwise perform the duties mandated by this Order.

#### **VI. ACCOUNTING AND TRANSFER OF FUNDS AND RECORDS**

Absent a valid assertion by Defendants of their respective rights against self-incrimination under the Fifth Amendment, each Defendant shall, within five business days following the service of this Order:

A. Provide the Temporary Receiver with a full detailed accounting of all assets, including the assets inside and outside of the United States that are held by each and every Defendant, for their benefit, or under their direct or indirect control, whether jointly or singly, and the location of all records of the Receivership Estate;

B. Transfer to the territory of the United States and deliver to the possession, custody, and control of the Temporary Receiver, all records and assets (other than real property) located outside of the United States that are held by each and every Defendant, for their benefit, or under their direct or indirect control, whether jointly or singly; and

C. Provide the Temporary Receiver access to all records of accounts or assets of the Defendants held by financial or brokerage institutions located within or outside the territorial United States by signing any necessary consent forms.

Absent a valid assertion by Defendants of their respective rights against self-incrimination under the Fifth Amendment, Defendants shall, within twenty-four hours of the issuance of this Order, cause to be prepared and delivered to the Temporary Receiver, a detailed and complete schedule of all account usernames and passwords and identification numbers for all websites, cloud storage services, e-mail and smartphone accounts, online chat and messaging services, and all accounts at any bank, financial institution, brokerage firm (including any introducing broker or futures commission merchant), digital asset exchange, and all digital asset wallet information including the private keys controlled or operated by or to which any Defendants have access in connection with their business activities and business and personal finances.

Absent a valid assertion by Defendants of their respective rights against self-incrimination under the Fifth Amendment, Defendants shall, within twenty-four hours of the issuance of this Order, cause to be prepared and delivered to the Temporary Receiver, a detailed and complete schedule of all passwords to, and the location, make and model of, all computers, online data storage accounts, cloud-based portals or storage and mobile electronic devices owned or used by Defendants in connection with their business activities and business and personal finances. 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 or mobile

device, and all usernames and passwords necessary to access and use the software contained on the computer or mobile device.

## **VII. TURNING OVER ASSETS AND RECORDS**

Upon service of this Order, and absent a valid assertion by Defendants of their respective rights against self-incrimination under the Fifth Amendment, Defendants and any other person or entity served with a copy of this Order, shall immediately or within such time as permitted by the Temporary Receiver in writing, deliver over to the Temporary Receiver:

- A. Possession and custody of all assets of the Receivership Defendants, wherever situated, including those owned beneficially or otherwise;
- B. Possession and custody of records of the Receivership Defendants in connection with their business activities and business and personal finances, including but not limited to, all records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents, and other records of the Receivership Defendants;
- C. Possession and custody of all assets belonging to members of the public now held by the Receivership Defendants;
- D. All keys, passwords, entry codes, and combinations to locks necessary to gain or to secure access to any of the assets or records of the Receivership Defendants related to their business activities and business and personal finances, including, but not limited to, access to the Receivership Defendants' business premises, means of communication,

accounts, computer systems, mobile electronic devices, or other property, and all digital asset wallet information including the private keys; and

E. Information identifying the accounts, employees, properties, or other assets or obligations of the Receivership Defendants.

### **VIII. COOPERATION WITH THE TEMPORARY RECEIVER**

Absent a valid assertion of their respective rights against self-incrimination under the Fifth Amendment, Defendants and all other persons or entities served with a copy of this Order shall cooperate fully with and assist the Temporary Receiver. This cooperation and assistance shall include, but not be limited to, providing any information to the Temporary Receiver that the Temporary Receiver deems necessary to exercising the authority as provided in this Order; providing any password required to access any computer or electronic files in any medium; and discharging the responsibilities of the Temporary Receiver under this Order, and advising all persons who owe debts to the Receivership Defendants that all debts should be paid directly to the Temporary Receiver.

Within thirty days of the entry of this Order, the Defendants shall provide to the Temporary Receiver and the CFTC copies of the Receivership Defendants' federal income tax returns for 2018, 2019, 2020, 2021, and 2022, with all relevant and necessary underlying documentation.

The individual Defendants and the entity Defendant's past and present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers, and general and limited partners, and other appropriate persons or entities shall answer under oath to the Temporary Receiver all questions that the Temporary Receiver may put to them and produce all documents as required by the

Temporary Receiver regarding the business of the Receivership Defendants, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Defendants. In the event that the Temporary Receiver deems it necessary to require the appearance of the aforementioned persons or entities, the Temporary Receiver shall make its discovery requests in accordance with the Federal Rules of Civil Procedure.

The Temporary Receiver shall have the power to issue subpoenas to compel testimony of persons or production of records, consistent with the Federal Rules of Civil Procedure and applicable Local Rules, except for the provisions of Federal Rule of Civil Procedure 26(d)(1), concerning any subject matter within the powers and duties granted by this Order.

#### **IX. COMPENSATION OF TEMPORARY RECEIVER**

The Temporary Receiver and all personnel hired by the Temporary Receiver as herein authorized, including counsel to the Temporary Receiver, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them for those services authorized by this Order that when rendered were: (1) reasonably likely to benefit the Receivership Estate; or (2) necessary to the administration of the Receivership Estate.

However, the Temporary Receiver and any personnel hired by the Temporary Receiver shall not be compensated or reimbursed by, or otherwise be entitled to, any funds from the Court or the CFTC. The Temporary Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than ninety days after the date of this Order and



subsequent requests filed quarterly thereafter. The requests for compensation shall itemize the time and nature of services rendered by the Temporary Receiver and all personnel hired by the Temporary Receiver.

**X. STAY ON ACTIONS**

Except by leave of the Court, during the pendency of the receivership ordered herein, Defendants and all other persons and entities are stayed from taking any action (other than the present action by the CFTC) to establish or enforce any claim, right, or interest for, against, on behalf of, in, or in the name of, the Receivership Defendants, the Temporary Receiver, the Receivership Estate, or the Temporary Receiver's duly authorized agents acting in their capacities as such, including but not limited to, the following actions:

- A. Petitioning, or assisting in the filing of a petition, that would cause the Receivership Defendants to be placed in bankruptcy;
- B. Commencing, prosecuting, litigating, or enforcing any suit or proceeding against any of the Receivership Defendants, or any of their subsidiaries or affiliates, except that such actions may be filed to toll any applicable statute of limitations;
- C. Commencing, prosecuting, continuing, or entering any suit or proceeding in the name of or on behalf of any of the Receivership Defendants, or any of their subsidiaries or affiliates;
- D. Accelerating the due date of any obligation or claimed obligation, enforcing any lien upon, or taking or attempting to take possession of, or retaining possession of, property of the Receivership Defendants, or any of their subsidiaries or affiliates, or any property claimed by any of them, or attempting to foreclose, forfeit, alter, or terminate any

of the Receivership Defendants' interests in property, including without limitation, the establishment, granting, or perfection of any security interest, whether such acts are part of a judicial proceeding or otherwise;

E. Using self-help or executing or issuing, or causing the execution or issuance of, any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wherever located, owned by or in the possession of the Receivership Defendants, or any of their subsidiaries or affiliates, or the Temporary Receiver, or any agent of the Temporary Receiver; and

F. Doing any act or thing whatsoever to interfere with the Temporary Receiver taking control, possession, or management of the property subject to the receivership, or to in any way interfere with the Temporary Receiver, or to harass or interfere with the duties of the Temporary Receiver; or to interfere in any manner with the exclusive jurisdiction of this Court over the property and assets of the Receivership Defendants, or their subsidiaries or affiliates.

Provided, however, that nothing in this Section shall prohibit any federal or state law enforcement or regulatory authority from commencing or prosecuting an action against the Receivership Defendants.

#### **XI. PERSONS BOUND BY THIS ORDER**

This Order is binding on any person who receives actual notice of this Order by personal service or otherwise and is acting in the capacity of an officer, agent, servant, employee, or attorney of Defendants, or is in active concert or participation with the Defendants.

## **XII. SERVICE OF ORDER AND ASSISTANCE**

Copies of this Order may be served by any means, including via e-mail or facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any records or assets of any Defendant, or that may be subject to any provision of this Order.

Elizabeth Streit, Douglas Snodgrass, Matthew Edelstein, and representatives of the United States Marshals Service are specially appointed by the Court to effect service.

The United States Marshals Service, or state or local law enforcement in the applicable judicial district, is authorized to: (1) accompany and assist the CFTC's representatives in the service and execution of the Summons, Complaint, and this Order on Defendants; and (2) help maintain lawful order while the CFTC's representatives inspect records as provided in this Order.

## **XIII. SERVICE ON THE CFTC**

Defendants shall comply with all electronic filing rules and requirements of the United States District Court of the Middle District of Florida and shall serve all pleadings, correspondence, and notices required by this Order, and other materials on the CFTC by delivering a copy to Douglas Snodgrass, Division of Enforcement, Commodity Futures Trading Commission, 77 West Jackson Blvd, Suite 800, Chicago, Illinois 60604, 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 CFTC's regular mail.

## **XIV. PRELIMINARY INJUNCTION HEARING**

Defendants shall appear before this Court on **August 10, 2023, at 9:30 a.m.**, to show cause, if there is any, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint against Defendants, continuing the restrictions and requirements set forth in this Order, continuing the appointment of the Temporary Receiver, and imposing such additional relief as may be appropriate. The hearing shall be limited to argument of counsel unless the Court grants express leave to the contrary in advance of the hearing.

#### **XV. BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION**

Defendants shall file with the Court and serve on the CFTC's counsel any answering pleadings, affidavits, motions, expert reports or declarations, or legal memoranda no later than four days prior to the order to show cause hearing scheduled pursuant to this Order. The CFTC may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Defendants no later than one day prior to the order to show cause hearing. Such affidavits, pleadings, motions, expert reports, declarations, legal memoranda, or oppositions must be served by personal or overnight delivery, facsimile, or e-mail, and be received by the other party or parties no later than 5:00 p.m. on the dates set forth in this Section.

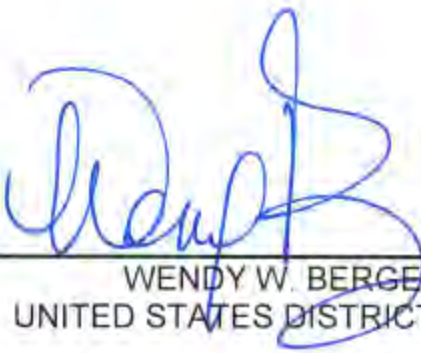
On or before **August 7, 2023**, the parties shall each file a notice, not to exceed five pages, informing this Court if an evidentiary hearing is necessary in this matter. Any party requesting an evidentiary hearing shall: (1) identify with particularity all disputed issues of material fact or credibility determinations that are expected to impact the resolution of the issue; (2) the name, address, and telephone number of any witnesses

that the party anticipates calling at a hearing; and (3) the estimated length of the requested hearing. The party shall also attach to its notice a detailed summary or affidavit revealing the substance of each proposed witness's expected testimony and an explanation of why the taking of live testimony would be helpful to this Court.

**XVI. DURATION OF THE ORDER**

This Order shall expire fourteen days from the date of entry noted below, unless within such time, the Order is extended for an additional period for good cause shown.

**DONE** and **ORDERED** in Orlando, Florida on August 2, 2023.



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WENDY W. BERGER  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record