

**In The United States District Court
For The Northern District Of Illinois
Eastern Division**

Commodity Futures Trading Commission,
Plaintiff,

vs.

John Martin Lofgren,

and

Melrose Asset Management Corporation,
Defendants.

Civil Action No: 02 C 6222

**STATUTORY RESTRAINING ORDER AND
ORDER APPOINTING RECEIVER**

Having read the Complaint for Injunctive and Other Equitable Relief, the Plaintiff's Motions for a Statutory Restraining Order on Notice and Appointment of a Receiver, the declaration of Hugh J. Rooney, and the brief submitted in support of its motions:

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 (2001), permits this Court to enter a statutory restraining order and appoint a temporary receiver.
3. It appears that there is good cause to believe that Defendants John Martin Lofgren ("Lofgren") and Melrose Asset Management Corporation ("Melrose") (collectively "the Defendants"), have engaged, are engaging in and are about to engage in violations of Sections

4b(a)(2)(i)-(iii), 4c(b) and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii), 6c(b) and 6o(1), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2002).

4. It also appears that this is a proper case to appoint a temporary equity receiver and grant a statutory restraining order.

IT IS HEREBY ORDERED THAT:

I.

Statutory Restraining Order and Asset Freeze

Defendants Lofgren and Melrose, and all persons insofar as they are acting in the capacity of their agents, successors, assigns, and attorneys, and all persons insofar as they are acting in active concert or participation with them who receive actual notice of such order by personal service or otherwise, shall be prohibited from directly or indirectly:

- A. Withdrawing, transferring, removing, dissipating or disposing of funds, assets or other property, wherever situated, including but not limited to, all funds, personal property, money or securities held in safes, safety deposit boxes and all funds on deposit in any financial institution, bank or savings and loan account held by, under the control, or in the name of the Defendants;
- B. Destroying, altering, concealing or disposing of any books, records, electronically stored data or other documents, wherever stored concerning the Defendants; and
- C. Refusing to permit authorized representatives of the Commission to inspect; when and as requested, any books, records, electronically stored data or other documents, wherever stored concerning the Defendants.

IT IS FURTHER ORDERED THAT: Each firm, corporation or other person or entity with notice which holds, or which is a depository of funds, securities, property, or other assets of or under the control of the Defendants, including funds and property of investors, is prohibited from transferring, withdrawing, removing or disposing of any such funds, securities, property, or other assets until further order of this Court. This Order may be served on any such entity by facsimile transmission.

II.
Appointment of Receiver

IT IS FURTHER ORDERED THAT: Stephen T. Bobo is appointed as temporary equity Receiver (“Receiver”), with the full powers of an equity receiver, for the Defendants and their affiliates and subsidiaries, and all funds, properties, premises, accounts and other assets directly or indirectly owned, beneficially or otherwise, by the Defendants, individually or collectively, including, but not limited to, investors’ funds, for the purpose of marshalling, preserving, accounting for and liquidating the assets that are subject to this Order and directing, monitoring and supervising Defendants’ activities in accordance with the provisions of this Order set forth below.

IT IS FURTHER ORDERED that the Receiver shall be the agent of this Court in acting as Receiver under this Order.

III.
Powers of Receiver

IT IS FURTHER ORDERED that the Receiver is directed and authorized to accomplish the following:

- A. Take exclusive custody, control, and possession of all the funds, property, mail and other assets of, in the possession of, or under the control of the Defendants wherever situated. The Receiver shall have full power to sue for, collect, receive and take possession of all goods, chattels, rights, credits, moneys, effects, land, leases, books, records, work papers, and records of accounts, including computer-maintained information and digital data and other papers and documents of the Defendants, including documents related to customers or clients whose interest are now held by or under the direction, possession, custody or control of the Defendants;
- B. Take all steps necessary to secure the business premises of the Defendants, including but not limited to premises located at 141 West Jackson Boulevard, Chicago, Illinois 60604, and any and all other premises under the control of the Defendants;

- C. Take all steps necessary to secure the residence(s) of the Defendant, including, but not limited to the Lofgren residence located in Kenilworth, Illinois. The Receiver shall pay reasonable monthly living expenses to Lofgren after, and based upon, Lofgren's submission of written and sworn verification of those living expenses. The living expenses shall include funds necessary for Lofgren to preserve the personal residence as an asset by, including but not limited to, making prompt mortgage payments and performing reasonable maintenance of the property;
- D. Preserve, hold and manage all receivership assets, and perform all acts necessary to preserve the value of those assets, in order to prevent any loss, damage or injury to customers or clients;
- E. Prevent the withdrawal or misapplication of funds entrusted to the Defendants, and otherwise protect the interests of customers or clients;
- F. Collect all money owed to the Defendants;
- G. Initiate, defend, compromise, adjust, intervene in, dispose of, or become a party to any actions or proceedings in state, federal or foreign jurisdictions necessary to preserve or increase the assets of the Defendants or to carry out his or her duties pursuant to this Order;
- H. Choose, engage and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities upon obtaining leave of this Court and thereafter, only upon further order of this Court;
- I. Issue subpoenas to obtain documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the receivership estate;
- J. Open one or more bank accounts as designated depositories for funds of the Defendants. The Receiver shall deposit all funds of the Defendants in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts;
- K. 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. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Defendants prior to the date of entry of the Consent Order, except for payments that the Receiver deems necessary or advisable to secure assets of the Defendants;
- L. Liquidate all assets of the Defendants including closing out all commodities options, or other outstanding positions and/or hold such assets without further court order; and

- M. Vacate the business premises occupied by the Defendants and consolidate all records and other assets by moving assets and records, if any, currently located outside of this District to a secure facility maintained within this District.

IV.
Delivery to Receiver

IT IS FURTHER ORDERED that, immediately upon service of this Order upon them, Defendants and any other person or entity served with a copy of this order shall, immediately or within such time as permitted by the Receiver in writing, deliver over to the Receiver;

- A. Possession and custody of all funds and all other assets, belonging to investors or commodity pool participants as described in the complaint;
- B. Possession and custody of documents of the Defendants, including but not limited to, all books and 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 papers;
- C. Possession and custody of all precious metals, other commodities, funds and other assets belonging to members of the public now held by the Defendants;
- D. All keys, computer passwords, entry codes, PIN numbers and combinations to locks necessary to gain or to secure access to any of the assets or documents of the Defendants, including but not limited to, access to the Defendants' business premises, means of communication, accounts, computer systems, or other property; and
- E. Information identifying the accounts, employees, properties or other assets or obligations of the Defendants.

V.
Cooperation with Receiver

IT IS FURTHER ORDERED that the Defendants and all other persons or entities served with a copy of this Order shall cooperate fully with and assist the Receiver in the performance of his duties. This cooperation and assistance shall include, but not be limited to, providing any information to the Receiver that the Receiver deems necessary to exercising the

authority and discharging the responsibilities of the Receiver under this order; providing any password required to access any computer or electronic files in any medium; and advising all persons who owe money to the Defendants that all debts should be paid directly to the Receiver.

VI.
Stay

IT IS FURTHER ORDERED that except by leave of the Court, during the pendency of the receivership ordered herein, the Defendants, and all other persons and entities be and hereby are stayed from taking any action to establish or enforce any claim, right or interest for, against, on behalf of, or in the name of the Defendants, the Receiver, receivership assets, or the Receiver's duly authorized agents acting in their capacities as such, including but not limited to, the following actions:

- A. Commencing, prosecuting, litigating or enforcing any suit, except that actions may be filed to toll any applicable statute of limitations;
- B. 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 Defendants or any property claimed by the Defendants, or attempting to foreclose, forfeit, alter or terminate any of the Defendants' interests in property, whether such acts are part of a judicial proceeding or otherwise;
- C. 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 Defendants, or the Receiver or any agent of the Receiver; and
- D. Doing any act or thing to interfere with the Receiver taking control, possession or management of the property subject to the receivership, or to in any way interfere with the Receiver or the duties of the Receiver, or to interfere with the exclusive jurisdiction of this Court over the property and assets of the Defendants. This Paragraph does not stay the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

VII.

Receiver's Report to the Court and Compensation

IT IS FURTHER ORDERED that the Receiver maintain written accounts, itemizing receipts and expenditures, describing properties held or managed, and naming the depositories of receivership funds; make such written accounts and supporting documentation available to the Commission for inspection, and, within sixty (60) 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.

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the 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 estate. The receiver and all personnel hired by the receiver shall be compensated solely out of funds now held by or in the possession or control of or which may in the future be received by the receivership Defendants and shall not be entitled to any compensation from the Commission. The 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 sixty (60) days after the date of this Order and subsequent requests filed monthly thereafter. The requests for compensation shall itemize the time and nature of services rendered by the receiver and all

personnel hired by the receiver. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

VIII.
No Bond

IT IS FURTHER ORDERED that the Receiver is appointed without bond.

IX.
Service of Order and Assistance of United States Marshals Service

IT IS FURTHER ORDERED that, copies of this Order may be served by any means, including facsimile transmission, electronic mail or data transfer; 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.

IT IS FURTHER ORDERED that the United States Marshals Service is directed to assist the Receiver in taking control and custody of the assets, records and business premises of the receivership Defendants.

IT IS FURTHER ORDERED that Hugh J. Rooney, an employee of the Commission, is hereby specially appointed to serve process, including the summons and complaint, and all other papers in this cause.

X.
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 Elizabeth Streit, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

XI.
Court Maintains Jurisdiction

IT IS FURTHER ORDERED that 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.

XII.
Status Hearing

IT IS FURTHER ORDERED that this matter is set for status hearing on September 16,
2002 at 9:15 a.m. o'clock without further notice.

SO ORDERED 8/30 , 2002

 /S/ Wm. J. Hibbler
UNITED STATES DISTRICT JUDGE