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U.S. DISTRICT COURT
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DISTRICT OF UTAH
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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

U.S. COMMODITY FUTURES)
TRADING COMMISSION)
)
Plaintiff,)
)
v.)
)
U.S. VENTURES LC, a Utah limited liability)
company, WINSOME INVESTMENT)
TRUST, an unincorporated Texas entity,)
ROBERT J. ANDRES and ROBERT L.)
HOLLOWAY,)
)
Defendants.)
)

PLAINTIFF'S *EX PARTE* MOTION FOR
STATUTORY RESTRAINING ORDER,
EXPEDITED DISCOVERY,
ACCOUNTING, ORDER TO SHOW
CAUSE RE PRELIMINARY
INJUNCTION AND OTHER EQUITABLE
RELIEF

Case: 2:11cv00099 *JENKINS*
Assigned To : ~~Campbell, Tena~~
Assign. Date : 1/24/2011
Description: US Commodity Futures
Trading Commission v. US Ventures
et al

Pursuant to Section 6c of the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*

Commission (“Commission”), moves this Court to grant the Commission’s request for an *ex parte* statutory restraining order (“SRO”) (1) freezing US Ventures LC’s (“USV”), Winsome Investment Trust’s (“Winsome”), Robert J. Andres’ (“Andres”) and Robert L. Holloway’s (“Holloway”) (collectively, “Defendants”) assets; (2) appointing a temporary receiver; (3) permitting the Commission and the receiver to inspect and copy Defendants’ books, records, documents and correspondence (wherever they may be located); and (4) preventing Defendants from directly or indirectly destroying, mutilating, concealing, altering or disposing of any books, records, documents or correspondence. The Commission also requests that the Court enter an order granting expedited discovery and requiring Defendants to provide the Commission and the receiver, with a full accounting of their funds, documents and assets. The Commission further requests that the Court enter an order compelling Defendants to appear before the Court and show cause why a preliminary injunction should not be entered against them to enjoin further violations of the CEA and the Commission Regulations promulgated under it, 17 C.F.R. §1 *et seq.* (2010) (“Regulation(s)").

In support of this motion, the Commission respectfully refers the Court to the Commission’s Brief in Support of its *Ex Parte* Motion for Statutory Restraining Order, Expedited Discovery, Accounting, Order to Show Cause re Preliminary Injunction and Other Equitable Relief, and exhibits filed therewith (“Brief”).

As explained in the Brief, since at least May 2005 through November 2008 (“relevant period”), Defendants have fraudulently solicited and accepted at least \$50.2 million from at least 243 members of the general public to participate in commodity pools for trading commodity futures contracts.

In soliciting prospective pool participants, Defendants falsely represented, among other things, that Defendants' trading was consistently profitable with only one day of losses and that participants' principal was protected from loss and could be retrieved at any time.

In their solicitations, Defendants did not disclose adequately, among other things, the risks of trading commodity futures.

Contrary to Defendants' claims of successful trading, they sustained net losses of approximately \$10.7 million trading commodity futures. Defendants operated a "Ponzi" scheme by paying so-called profits to participants that in actuality came not from successful trading, but from either existing participants' original investments or money invested by subsequent participants. In doing so, Defendants misappropriated funds. Defendants also misappropriated participant funds for personal use, such as giving funds to family members and paying for miscellaneous expenses. To conceal and perpetuate their fraud and misappropriation, Defendants created and issued false account statements.

Defendants' fraud is ongoing. From April 2007 to the present, Defendants have refused to meet pool participant requests for redemptions. As of October 2010, Andres was sending threatening e-mails to participants attempting to intimidate them against assisting in any legal action against Defendants. Additionally, Holloway has made recent attempts to register as a Commodity Trading Advisor, indicating that he may still be soliciting funds from individuals for investment in commodity futures.

The Commission is proceeding *ex parte* because providing advance notice of this action to Defendants may result in the destruction of documents or dissipation of assets or funds and thereby possibly decrease the likelihood of locating assets, identifying victims

and determining the scope of Defendants' wrongdoing. Preserving the status quo through the proposed *ex parte* statutory restraining order will protect the Court's ability to grant full and effective relief.

Accordingly, as set forth in full in the proposed order filed concurrently herewith, the Commission respectfully requests the Court enter an *ex parte* statutory restraining order that, in summary: (1) freezes Defendants' assets; (2) appoints a temporary receiver; (3) permits the Commission and the receiver to inspect and copy Defendants' books, records, documents and correspondence (wherever they may be located); and (4) prevents Defendants from directly or indirectly destroying, mutilating, concealing, altering or disposing of any books, records, documents or correspondence. The Commission also requests that the Court enter an order granting expedited discovery and requiring Defendants to provide the Commission and the receiver, with a full accounting of their funds, documents and assets. The Commission further requests that the Court enter an order compelling Defendants to appear before the Court and show cause why a preliminary injunction should not be entered against them to enjoin further violations of the CEA and the Regulations.

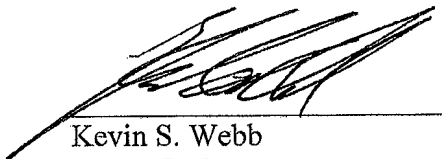
WHEREFORE, the Plaintiff respectfully requests that this Court, as authorized by Section 6c of the CEA, 7 U.S.C. § 13a-1 (2006) and pursuant to its own equitable powers, grant Plaintiff's motion for a statutory restraining order, expedited discovery, accounting and order to show cause why a preliminary injunction should not issue in the form of the [Proposed] Order filed concurrently herewith.

Dated: January 24, 2011

Respectfully submitted,

ATTORNEYS FOR THE PLAINTIFF
U.S. COMMODITY FUTURES TRADING

COMMISSION

A handwritten signature in black ink, appearing to read 'Kevin S. Webb', is written over a horizontal line.

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