

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

FILED
U.S. DISTRICT COURT

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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.

Case No. 2:11CV00099 BSJ

~~PROPOSED~~ ORDER OF
PRELIMINARY INJUNCTION AND
OTHER EQUITABLE RELIEF AGAINST
DEFENDANT ROBERT J. ANDRES

This cause comes before this Court upon Plaintiff U.S. Commodity Futures Trading Commission's ("Commission") Complaint and its *Ex Parte* Motion for Statutory Restraining Order, Expedited Discovery, Accounting, Order to Show Cause re Preliminary Injunction and Other Equitable Relief ("Motion").

On January 25, 2011, the Court ordered Defendants US Ventures LC, Winsome Investment Trust, Robert J. Andres ("Andres") and Robert L. Holloway to appear before the Court on February 14, 2011 to show cause, if there be any, why an Order for Preliminary Injunction should not be granted to prohibit further violations of the Commodity Exchange Act ("CEA") and why the other relief requested in Plaintiff's Motion should not be granted pending trial on the merits of this action ("Order to Show Cause Hearing"). The Court also ordered that any opposition to Plaintiff's Motion be filed on or before February 10, 2011.

Defendants did not file any opposition to Plaintiff's Motion by February 10, 2011.

On February 14, 2011, Defendant Andres filed a motion to continue the February 14,

2011 Order to Show Cause Hearing as it pertained to him so that he may have additional time to seek representation in this matter.

Following a February 14, 2011 hearing on Andres' motion, the Court granted Andres' motion continuing his Order to Show Cause Hearing to February 28, 2011. The Court ordered Andres to appear in person at the February 28, 2011 Order to Show Cause Hearing and to have his attorney enter an appearance in this matter by February 25, 2011.

No entry of appearance was filed by an attorney for Andres by February 25, 2011.

On February 28, 2011, Defendant Andres filed a motion to continue the February 28, 2011 Order to Show Cause Hearing to March 21, 2011 or later so that he may have additional time to seek representation in this matter.

The Court denied Andres' motion and conducted the Order to Show Cause Hearing as scheduled, hearing argument from the Commission and Andres as to the entry of an Order of Preliminary Injunction. The Court admonished Andres for failing to have an attorney enter an appearance by February 25, 2011 and for appearing via telephone.

As it appears to the Court that there is good cause to believe that Defendant Andres has engaged, is engaging in, or is about to engage in violations of the Commodity Exchange Act (the "CEA"), 7 U.S.C. §§ 1 *et seq.* (2006), 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), and that this is a proper case for granting a preliminary injunction to preserve the status quo, protect public customers from further loss and damage, and enable the Commission to fulfill its statutory duties, the Court finds as follows:

I.

Jurisdiction and Venue

THE COURT FINDS that:

1. The Court has jurisdiction over the transactions at issue in this case pursuant to Section 6c of the Commodity Exchange Act (the "CEA"), 7 U.S.C. § 13a-1 (2006), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the CEA or any rule, regulation, or order thereunder.
2. Venue properly lies with this Court pursuant to Section 6c(e) of the CEA, 7 U.S.C. § 13a-1(e) (2006), in that Defendants are found, inhabit, or transact business in this district, and the acts and practices in violation of the CEA have occurred, are occurring, or are about to occur within this district.

II.

Prohibition from Violations of the CEA

IT IS HEREBY ORDERED that:

1. Defendant Andres, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of Defendant Andres, and all persons insofar as they are acting in active concert or participation with Defendant Andres who receive actual notice of this Order by personal service or otherwise, shall be prohibited and restrained from directly or indirectly engaging in conduct in violation of the CEA as alleged in the Complaint.
2. Defendant Andres, and any person or entity acting in the capacity of an officer, agent, servant, employee or attorney of Defendant Andres, and any person who receives actual notice of this Order by personal service or otherwise who is acting in concert or participation

with Defendant Andres, are also restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly engaging in any activity related to trading any commodity, as that term is defined in Section 1a(4) of the CEA, 7 U.S.C. § 1a(4) (2006) (“commodity interest”), including but not limited to the following:

- a. trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(29) of the CEA, 7 U.S.C. § 1a(29)(2006));
- b. entering into any transactions involving commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 32.1(b)(1), 17 C.F.R. § 32.1(b)(1) (2010)) (“commodity options”), and/or foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the CEA as amended by the CRA, to be codified at 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i)) (“forex contracts”) for their own personal account or for any account in which they have a direct or indirect interest;
- c. having any commodity futures, options on commodity futures, commodity options, and/or forex contracts traded on their behalf;
- d. controlling or directing the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity futures, options on commodity futures, commodity options, and/or forex contracts;
- e. soliciting, receiving, or accepting any funds from any person for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options, and/or forex contracts;
- f. applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2010); and
- g. acting as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2010)), agent or any other officer or employee of any person registered, exempted from registration or required to be registered with the Commission, except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2010).

III.

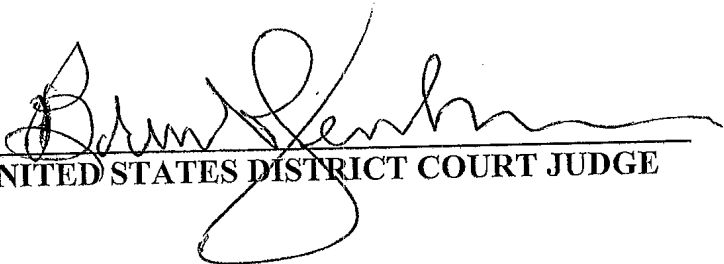
Force and Effect

IT IS HEREBY ORDERED that:

1. 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. The Order Granting Plaintiff's *Ex Parte* Motion for Statutory Restraining Order, Expedited Discovery, Accounting, Order to Show Cause re Preliminary Injunction and Other Equitable Relief previously ordered by the Court shall remain in full force and effect until further order of this Court.

2. Defendant Andres may seek reconsideration of this Order if an attorney files an appearance on his behalf and a motion for reconsideration by March ^{18th} ~~10~~ ^{8th (Eighteenth)}, 2011.

SO ORDERED, at Salt Lake City, Utah, on this ^{7th} 8 day of November, at 9:30 am/~~pm~~.


UNITED STATES DISTRICT COURT JUDGE