

1 Jamie Brown, Esq. (Pro Hac Vice)
Christine Ryall, Esq. (Pro Hac Vice)
2 John Dunfee, Esq. (Pro Hac Vice)
Bernard John Barrett, Esq. (CA Bar #165869)
3 1155 21st Street, N.W.
Washington, D.C. 20581
4 202-418-5373 (Brown)
202-418-5318 (Ryall)
5 202-418-5396 (Dunfee)
202-418-5372 (Barrett)
6 202-418-5531 (fax)

7 Attorneys for Plaintiff
Commodity Futures Trading Commission
8

9 UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 _____) Case No.
11 Commodity Futures Trading)
Commission,) CV03-8339
12)
Plaintiff,) (Proposed) (MODIFIED)
13) Ex Parte Statutory
v.) Restraining Order, Order
14) Permitting
Emerald Worldwide Holdings, Inc.,) Expedited Discovery and
15 Jan Lu Hao, and Jian Zhuang,) Order to Show Cause
16) Re Preliminary
Defendants.) Injunction:
_____)

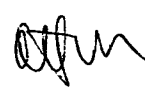
17 This matter came on for hearing on November 18, 2003 on the
18 Application without notice of Plaintiff Commodity Futures Trading
19 Commission (the "Commission" or "Plaintiff") for an ex parte: (1)
20 Statutory Restraining Order; (2) Order Permitting Immediate
21 Expedited Discovery; and (3) Order to Show Cause re: Preliminary
22 Injunction (the "Application"). The Court, having considered the
23 Commission's Complaint, Application, Memorandum of Points and
24 Authorities, Exhibits, all other materials and evidence filed by

1 Plaintiff herein, and having heard the arguments of Plaintiff's
2 counsel, finds that:

3 1. This Court has jurisdiction over the parties and over
4 the subject matter of this action pursuant to Section 6c of the
5 Commodity Exchange Act, as amended (the "Act") 7 U.S.C. § 13a-1
6 (2001).

7 2. Venue lies properly within this District pursuant to
8 Sections 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2001). There is
9 good cause to believe that Emerald Worldwide Holdings, Inc., Jan
10 Lu Hao and Jian Zhuang, ("Defendants") have engaged, are engaging
11 and are about to engage in acts and practices constituting
12 violations of the Act, 7 U.S.C. §§ 1, et seq. (2001).

13 3. There is good cause to believe that immediate and
14 irreparable damage to the Court's ability to grant effective final
15 relief for investors in the form of monetary redress will occur
16 from the sale, transfer, assignment, or other disposition by
17 Defendants of assets or records unless Defendants are immediately
18 restrained and enjoined by Order of this Court.

19 4. Good cause exists for the freezing of ^{Certain of} Defendants' assets 
20 and for entry of an order prohibiting Defendants from destroying
21 records and denying agents of the Commission access to inspect and
22 copy records.

1 5. Good cause exists to permit discovery before the early
2 meeting of counsel pursuant to Rule 26(d) of the Federal Rules
3 of Civil Procedure.

4 6. Pursuant to Rule 30(a)(2) of the Federal Rules of
5 Civil Procedure, immediate depositions are consistent with the
6 principles of Rule 26(b)(2) of the Federal Rules of Civil
7 Procedure.

8 7. Weighing the equities and considering the Commission's
9 likelihood of success in its claims for relief, the issuance of a
10 statutory restraining order is in the public interest.

11 DEFINITIONS

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

14 8. The term "document" is synonymous in meaning and equal
15 in scope to the usage of the term in Federal Rule of Civil
16 Procedure 34(a), and includes, but is not limited to, writings,
17 drawings, graphs, charts, photographs, audio and video
18 recordings, computer records, and other data compilations from
19 which information can be obtained and translated, if necessary,
20 through detection devices into reasonably usable form. A draft
21 or non-identical copy is a separate document within the meaning
22 of the term.

23 9. "Assets" means any legal or equitable interest in,
24 right to, or claim to any real or personal property, including

1 but not limited to chattels, goods, instruments, equipment,
2 fixtures, general intangibles, effects, leaseholds, mail or other
3 deliveries, inventory, checks, notes, accounts including bank
4 accounts held for the benefit of the defendants and accounts at
5 financial institutions, credits, receivables, lines of credit,
6 contracts including spot and futures contracts, insurance
7 policies, and all cash, located at the following bank accounts:
8 1) Bank of America, Accounts 07015-01028 and 07970-09989; (2)
9 Wells Fargo, Account 1013679566; (3) and Citibank, Accounts
10 200113892 and 200304830, and any other account ^{owned by, controlled by or} held for the ~~benefit~~
11 benefit of the Defendants.

12 10. "Defendants" means Emerald Worldwide Holdings, Inc.
13 and Jian Zhuang, currently residing at City of Industry,
14 California, and Jan Lu Hao, currently residing in Rowland
15 Heights, California.

16 **RELIEF GRANTED**

17 **I.**

18 ***Order Against Transfer, Dissipation, And Disposal Of Assets***

19 **IT IS HEREBY ORDERED** that

20 11. Defendants are restrained and enjoined from directly
21 or indirectly transferring, selling, alienating, liquidating,
22 encumbering, pledging, leasing, loaning, assigning, concealing,
23 dissipating, converting, withdrawing, or otherwise disposing of
24 any assets, wherever located, including assets held outside the

1 United States, except as provided in Paragraph III of this
2 Order. The assets affected by this paragraph shall include both
3 existing assets and assets acquired after the effective date of
4 this Order. For all assets located in individual ~~bank~~ accounts
5 that are owned by, controlled by or held for the benefit of defendants Hao and Zhuang, this
6 paragraph shall ~~not~~ include up to \$5,000, per signatory and
7 individual defendant ~~accounts~~, for personal use.

8 12. Defendants, and their agents, servants, employees,
9 attorneys, and persons in active concert or participation with
10 them who receive actual notice of this Order by personal service
11 except as otherwise ordered by this Court, are restrained and
12 enjoined from directly or indirectly transferring, selling,
13 alienating, liquidating, encumbering, pledging, leasing,
14 loaning, assigning, concealing, dissipating, converting,
15 withdrawing, or otherwise disposing of any assets, wherever
16 located, including assets held outside the United States, except
17 as provided in Paragraph III of this Order, or as otherwise
18 ordered by the Court. The assets affected by this paragraph
19 shall include both existing assets and assets acquired after the
20 effective date of this Order. For all assets located in
21 individual ~~bank~~ accounts that are owned by, controlled by or
22 defendants Hao and Zhuang, this paragraph shall ~~not~~ include up to
23 the provisions of paragraph 11 ~~\$5,000, per signatory and account, for personal use.~~
24 shall apply.

ATM

necessary living expenses, not to exceed

per month

The parties shall in good faith negotiate additional provisions necessary to implement this paragraph.

1 13. Defendants are restrained and enjoined from directly
2 or indirectly opening or causing to be opened any safe deposit
3 boxes titled in the name or subject to access by the Defendants.

4 II.

5 *Directives to Financial Institutions and Others*

6 IT IS FURTHER ORDERED, pending further Order of this Court,
7 that any financial or brokerage institution, business entity, or
8 person that holds, controls, or maintains custody of any assets
9 of the Defendants, or has held, controlled, or maintained
10 custody of any account or asset of the Defendants at any time
11 since March 1, 2002, shall:

12 14. Prohibit Defendants and all other persons from
13 withdrawing, removing, assigning, transferring, pledging,
14 encumbering, disbursing, dissipating, converting, selling or
15 otherwise disposing of any such asset except as otherwise
16 *permitted by this order or* ~~For all assets located~~ *see ¶ 11.* *agm*
17 ~~in individual bank accounts that are held for the benefit of~~
18 ~~defendants Hao and Zhuang, this paragraph shall not include up to~~ *agm*
19 ~~\$5,000, per signatory and account, for personal use;~~

20 15. Deny Defendants and all other persons access to any
21 safe deposit box that is: (a) titled in the name of the
22 Defendants either individually or jointly; or (b) otherwise
23 subject to access by the Defendants;
24

1 16. Provide counsel for the Commission, within five (5)
2 business days of receiving a copy of this Order, a statement
3 setting forth: (a) the identification number of each and every
4 such account or asset titled in the name, individually or
5 jointly, of the Defendants, or held on behalf of, or for the
6 benefit, of the Defendants: (b) the balance of each such
7 account, or a description of the nature and value of such asset
8 as of the close of business on the day on which this Order is
9 served, and, if the account or other asset has been closed or
10 removed, the date closed or removed, the total funds removed in
11 order to close the account, and the name of the person or entity
12 to whom such account or other asset was remitted; and (c) the
13 identification of any safe deposit box that is either titled in
14 the name, individually or jointly, of the Defendants or is
15 otherwise subject to access by the Defendants; and

16 17. Upon request by the Commission, promptly provide the
17 Commission with copies of all records or other documentation
18 pertaining to such account or asset, including, but not limited
19 to, originals or copies of account applications, account
20 statements, signature cards, checks, drafts, deposit tickets,
21 transfers to and from the accounts, all other debit and credit
22 instruments or slips, currency transaction reports, 1099 forms,
23 and safe deposit box logs.

24

1 III.

2 *Accounting and Transfer of Funds and Documents*

3 IT IS FURTHER ORDERED that within five (5) business days
4 following the service of this Order, Defendants shall:

5 18. Provide the Commission with a full accounting of all
6 funds, documents, and assets outside of the United States that
7 are held by them, for their benefit, or under their direct or
8 indirect control, whether jointly or singly;

9 19. Transfer to the territory of the United States all
10 funds, documents, and assets located in foreign countries which
11 are held by them, for their benefit, or under their direct or
12 indirect control, whether jointly or singly; and

13 20. Provide the Commission access to all records of the
14 Defendants held by financial institutions located outside the
15 territorial United States by signing the Consent to Release of
16 Financial Records attached to this Order.

17 IV.

18 *Maintenance of Business Records*

19 IT IS FURTHER ORDERED that:

20 21. Defendants and all persons or entities who receive
21 notice of this Order by personal service or otherwise, are
22 restrained and enjoined from directly or indirectly destroying,
23 mutilating, erasing, altering, concealing or disposing of, in
24 any manner, directly or indirectly, any documents that relate to

1 the business practices or business or personal finances of
2 Defendants.

3 V.

4 *Inspection and Copying of Books and Records*

5 IT IS FURTHER ORDERED that:

6 22. Representatives of the Commission be immediately
7 allowed to inspect the books, records, and other documents of
8 the Defendants and their agents including, but not limited to,
9 electronically stored data, tape recordings, and computer discs,
10 wherever they may be situated and whether they are in the person
11 of the Defendants or others, and to copy said documents, data
12 and records, either on or off the premises where they may be
13 situated; and

14 23. Defendants and their agents, servants, employees,
15 attorneys, and persons in active concert or participation with
16 them who receive actual notice of this Order by personal service
17 or otherwise, including facsimile transmission, shall cooperate
18 fully with the Commission to locate and provide to representatives
19 of the Commission all books and records of Defendants, wherever
20 such books and records may be situated.

21 VI.

22 *Bond Not Required Of Plaintiff*

23 IT IS FURTHER ORDERED that:
24

1 24. Plaintiff Commission is an agency of the United States
2 of America and, accordingly, no bond need be posted by the
3 Commission.

4 VII.

5 *Order To Show Cause*

6 IT IS FURTHER ORDERED that:.

7 25. Defendants shall appear before this Court on the 18th
8 day of December, 2003, at 11:00 a.m., before the Honorable
9 A.H. Matz at the United States Courthouse for the
10 Central District of California at 312 N. Spring Street, Los
11 Angeles, California 90012 to show cause, if there be any, why an
12 Order for Preliminary Injunction should not be granted to prohibit
13 further violations of the Act and why the other relief requested
14 should not be granted pending trial on the merits of this action. *AM*

15 26. Should ^{defendants} ~~any party~~ wish to file a memorandum of law or
16 other papers in opposition to Plaintiff's Motion for a Preliminary
17 Injunction, all papers shall be filed on or before 12:00 noon at
18 2003 and served by hand or fax no later than November 26,
November 26, 2003.

19 VIII.

20 *Order Permitting Expedited Discovery*

21 IT IS FURTHER ORDERED that:

22 27. The prohibition upon discovery before the early
23 meeting of counsel is removed pursuant to Rule 26(d) of the
24 Federal Rules of Civil Procedure.

1 28. The prohibition upon the immediate commencement of
2 depositions is removed pursuant to Rule 30(a)(2)(C) of the
3 Federal Rules of Civil Procedure.

4 29. The parties may proceed to take the oral deposition of
5 any person upon three calendar days actual notice if the notice
6 is served upon the parties personally or by facsimile to the
7 party's last known business facsimile number.

8 30. The parties may also commence discovering documents
9 from third parties under normal discovery procedures.

10 **IX.**

11 ***Service of Order***

12 **IT IS FURTHER ORDERED** that:

13 31. This Order shall be served on Defendants by personal
14 service consistent with Federal Rule of Civil Procedure Rule
15 4(e). All subsequent pleadings, correspondence, notices
16 required by this Order, and other materials be served consistent
17 with Federal Rule of Civil Procedure Rule 4.

18 **X.**

19 ***Force and Effect***

20 **IT IS FURTHER ORDERED** that this Order shall remain in full
21 force and effect until further order of this Court, and that
22 this Court retains jurisdiction of this matter for all purposes.
23
24

1 SO ORDERED, at Los Angeles, California on this 18 day of

2 November 2003 at 11:00 a.m.

3 

4 UNITED STATES DISTRICT JUDGE

5
6
7 Presented by:

8 

9 Jamie Brown (Pro Hac Vice)

10 Christine Ryall (Pro Hac Vice)

11 John Dunfee (Pro Hac Vice)

12 Bernard John Barrett (CA Bar #165869)

13 1155 21st Street, N.W.

14 Washington, D.C. 20581

15 202-418-5373 (Brown)

16 202-418-5318 (Ryall)

17 202-418-5396 (Dunfee)

18 202-418-5372 (Barrett)

19 202-418-5531 (fax)

20 Attorneys for Plaintiff

21 Commodity Futures Trading Commission