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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

U.S. COMMODITY FUTURES TRADING)
COMMISSION,)
)
Plaintiff,)
)
)
v.)
)
JOHN M. MARSHALL, STEPHEN Z. ADAMS)
BROOKSHIRE RAW MATERIALS GROUP, INC.,)
BROOKSHIRE AND COMPANY, LTD. And)
BROOKSHIRE RAW MATERIALS MANAGEMENT,)
LLC,)
)
Defendants.)
)
and)
)
BROOKSHIRE RAW MATERIALS GROUP TRUST,)
)
Relief Defendant.)

No. 09 C 1056

Judge Amy St. Eve

**CONSENT ORDER FOR PRELIMINARY INJUNCTION
AND OTHER ANCILLARY RELIEF AGAINST DEFENDANTS**

On February 19, 2009, Plaintiff Commodity Futures Trading Commission (“CFTC” or “Commission”) filed a Complaint against Defendants John M. Marshall, Stephen Z. Adams, Brookshire Raw Materials Management, LLC, Brookshire Raw Materials Group, Inc., and Brookshire and Company, Ltd. (hereinafter referred to collectively as “Defendants”) and Relief Defendant Brookshire Raw Materials Group Trust, seeking injunctive and other equitable relief for violations of the Commodity Exchange Act, (“Act”), 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 and the

Commission Regulations ("Regulations") promulgated thereunder, 17 C.F.R. §§ 1.1 et seq. (2008). This matter comes before the Court on the Plaintiffs Motion for Preliminary Injunction. On February 19, 2009, this Honorable Court entered an Ex Parte Statutory Restraining Order against the Defendants and Relief Defendant.

The Defendants, without admitting or denying the allegations of the CFTC's Complaint for the purposes of this Consent Order of Preliminary Injunction and Other Ancillary Relief ("Order"), except as to jurisdiction and venue, which they admit, consent to the entry of this Order and state that the consent is entered voluntarily and that no promise or threat has been made by the CFTC or any member, officer, agent or representative thereof, to induce them to consent to this Order.

THE PARTIES AGREE AND THE COURT FINDS THAT:

1. This Court has jurisdiction over the subject matter of this action and the Defendants and Relief Defendant hereto pursuant to § 6c of the Act, 7 U.S.C. § 13-a1 (2006), which authorizes the CFTC 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 Act or any rule, regulation or order thereunder.

2. Venue properly lies with this Court pursuant to § 6c of the Act, 7 U.S.C. § 13a-1 (2006), in that Defendants and Relief Defendant are found in, inhabit, or transact business in this district, and the acts and practices in violation of the Act have occurred, are occurring, or are about to occur within this District, among other places.

3. Defendants waive the entry of findings of fact and conclusions of law for the purposes of this Order pursuant to Rule 52 of the Federal Rules of Civil Procedure.

I. DEFINITIONS

4. "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including but not limited to chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks; notes, accounts, credits, receivables, lines of credit, contracts, insurance policies, and all cash, wherever located. However, excluded from "Assets" and from this Order are: (1) the following accounts held by or which benefit defendants Marshall and/or Adams: President's Choice Financial Acct. # 0027414390; CIBC Acct. # 80-75530; BMO Bank of Montreal Acct. # 0002 1484-497; Royal Bank Acct. # 00324-5068515; Bank of Montreal Acct. # 0002-3628-984, Royal Bank of Canada Acct. # 136-272-2 and Royal Bank Acct. # 00002-137-367-9 (collectively, the "Excluded Accounts"), provided, however, that Defendants provide electronically copies of the monthly statements for the Excluded Accounts to the CFTC, attention of Senior Investigator Joy McCormack by the 15th of the following month and if requested, provide supporting documentation to the CFTC for any transactions that appear on those statements; and (2) provided that defendant Adams furnishes to the CFTC documentary evidence reasonably establishing that the automobiles were purchased with funds that were not part of the customer funds in the Relief Defendant that were improperly removed by Defendants, the following two (2) automobiles owned by Defendant Adams, together with any proceeds from the sale thereof: (a) a 1969 Chevrolet Camaro (license plate number GRNWITNV) and a 1969 Ford Torino (license plate number MY428CJ) (collectively, the "Adams Automobiles").

5. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes, but is not limited to, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through

detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

II. INJUNCTIVE RELIEF GRANTED

IT IS THEREFORE ORDERED THAT:

6. The Defendants are restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly violating §§ 4b(a)(2)(i)-(iii), and its amendments 4b(a)(1)(A)-(C), 4n(3)(A) and 4o(1) of the Act, 7 U.S.C. §§ 6b(a)(2)(i)-(iii), 6b(a)(1)(A)-(C), 6n(3)(A) and 6o(1), and Regulations 1.31 and 4.7(b)(4), 17 C.F.R. §§ 1.31 and 4.7(b)(4) thereunder.

IT IS FURTHER ORDERED THAT:

7. Defendants and Relief Defendant are further restrained, enjoined and prohibited, until further order of this Court, from directly or indirectly dissipating, withdrawing, removing, transferring, concealing or disposing of any cash, cashier's checks, funds, assets or other property of, or within the custody, control or actual or constructive possession of Defendants or Relief Defendant, including, but not limited to, all funds, personal property, money or securities held in Defendants' or Relief Defendant's name, jointly or individually, whether held or maintained in safety deposit boxes, and including all funds on deposit in any financial or brokerage institution, futures commission merchant, bank or savings and loan account held by, under the actual or constructive control, or in the name of Defendants or Relief Defendant, jointly or individually, funds or property of Defendants' investors, wherever located, whether held in the name of the Defendants, jointly or individually, or any other entity owned or controlled by Defendants. The assets affected by this paragraph shall include only existing assets and shall exclude income and assets acquired after February 19, 2009, so long as such assets are not traceable to the customer

funds in Relief Defendant that were improperly removed by Defendants provided, however, that neither this Paragraph nor this Order shall cover or otherwise apply to the Excluded Accounts or the Adams Automobiles identified in Paragraph 4 of this Order.

8. Until further order of this Court, any firm, bank, financial or brokerage institution, futures commission merchant, corporation, partnership, association or other person or entity which holds, controls, or maintains custody of any funds, securities, assets or other property of any kind (other than the Excluded Accounts or the Adams Automobiles identified in Paragraph 4 of this Order) and who receives notice of this Order by personal service or otherwise, including Federal Express or other commercial overnight service, email or facsimile or pursuant to Federal Rule of Civil Procedure 4 and Articles 2 through 10 of the Hague Convention, Service Abroad of Judicial and Extrajudicial Documents, shall:

- A. Prohibit Defendants and Relief Defendant and any other person from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;
- B. Deny Defendants and Relief Defendant, and any other person access to any safe deposit box that is:
 - 1 titled in the name of Defendants or Relief Defendant, either individually or jointly; or
 - 2 otherwise subject to access by the Defendants or Relief Defendant.
- C. For any funds held pursuant to this Order in name of the Defendants and Relief Defendant, to maintain fixed values, convert all balances into U.S. dollars using the exchange rate in effect as of the date of this order; and
- D. Cooperate with all reasonable requests of the CFTC relating to implementation of this Order, including producing records related to Defendants' accounts and Defendants' businesses.

9. The injunctive provisions of this Order shall be binding on Defendants, upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of Defendants, and upon any person who receives actual notice of this Order by personal service or otherwise, including Federal Express or other commercial overnight service, email or facsimile or pursuant to Federal Rule of Civil Procedure 4 and Articles 2 through 10 of the Hague Convention, Service Abroad of Judicial and Extrajudicial Documents, insofar as he or she is acting in active concert or participation with Defendants

IT IS FURTHER ORDERED THAT:

10. Defendants and Relief Defendant and their agents, servants, employees, successors, assigns, attorneys and all persons insofar as they are acting in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, including Federal Express or other commercial overnight service, email or facsimile or pursuant to Federal Rule of Civil Procedure 4 and Articles 2 through 10 of the Hague Convention, Service Abroad of Judicial and Extrajudicial Documents, are restrained and enjoined from directly or indirectly destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of Defendants or Relief Defendant wherever located, including all such records concerning the Defendants' and Relief Defendant's business operations.

IT IS FURTHER ORDERED THAT:

11. Defendants and Relief Defendant must permit representatives of the Plaintiff CFTC to immediately inspect the books, records and other electronically stored data, tape recordings, and other documents of the Defendants and Relief Defendant and their agents, including all such records of Defendants' and Relief Defendant's business operations, wherever

they are situated and whether they are in the possession of the Defendants, Relief Defendant or others and to copy said documents, data, and records either on or off the premises where they may be situated and whether they are in the possession of the Defendants, Relief Defendant or others, and to copy said documents, data and records, either on or off the premises where they may be situated.

12. Defendants and Relief Defendant and their agents, servants, employees, successors, assigns, attorneys and all persons insofar as they are acting in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from directly or indirectly refusing to make available for inspection by the CFTC, when as requested, any books, records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of Defendants or Relief Defendant wherever located, including, but not limited to, all such records of Defendants' and Relief Defendant's business operations.

IT IS FURTHER ORDERED THAT:

13. Defendants and Relief Defendant shall, to the extent that necessary information is in their possession, or under their control, prepare, sign and file with the Court, by 9 A.M., April 28, 2009, a complete and accurate accounting, of all assets identified in paragraphs (A)-(F) below, whether located inside the United States or elsewhere, for the period of September 6, 2006, to the date of such accounting, which shall be no earlier than the date of this Order. Such accounting shall include, without limitation, the identification of:

- A. All banks, FCMs, financial or brokerage institutions, including account numbers, which hold or have held funds, securities, commodity interests, assets, liabilities, and other property currently owned or controlled (legally, equitably or otherwise) directly or indirectly by Defendants or Relief Defendant, whether individually or jointly;

- B. All funds, securities, commodity interests, assets, liabilities, and other property currently owned or controlled (legally, equitably or otherwise) directly or indirectly by Defendants or Relief Defendant, whether individually or jointly;
- C. All funds, securities, commodity interests, assets and other property received directly or indirectly by Defendants or Relief Defendant, describing the source, amount, disposition, and current location of each listed item;
- D. All funds, securities, commodity interests, assets and other property transferred or otherwise disposed of directly or -indirectly by the Defendants or Relief Defendant, describing the source, amount, disposition, and current location of each listed item, including accounts or assets of Defendants and Relief Defendant held by any bank, FCM, financial or brokerage institutions located inside and/or outside the territorial United States;
- E. All customers of Defendants and Relief Defendant, including name, address, telephone number and email, account number, deposit and withdrawal dates and amounts; and
- F. The names and last known addresses of each bailee, debtor or other person or entity currently holding-any funds, securities, commodity interests, assets or other property owned or controlled (legally, equitably or otherwise) by Defendants or Relief Defendant, whether individually or jointly.

This accounting applies to assets and property. At a minimum, the accounting should also include a chronological schedule of all cash receipts and cash disbursements. In addition, each transaction shall be classified as business or personal. All business transactions shall disclose the business purpose of the transaction. The accounting shall be provided in an electronic format such as Quicken, Excel, or other accounting or electronic format spreadsheet. In addition, the Defendants and the Relief Defendant shall supply true and accurate copies of any balance sheets, income statements, statement of cash flow, or statement of ownership equity previously prepared for the Defendants' and Relief Defendant's business(es).

14. Defendants Adams and Marshall have been cooperating with the Commission in good faith and have been identifying and providing to the Commission copies of bank statements and other documents identifying assets.. Defendants Adams and Marshall shall continue to

cooperate with the Commission in this regard and shall continue to provide copies of other documents identifying assets currently held outside the United States as those assets are located and identified. To the extent records or documents relating to such assets are not in the possession of Defendants Adams and/or Marshall, Defendants Adams and Marshall shall use their best efforts to obtain copies of bank or financial statements relating to such assets and shall turn over all such documentation received promptly after receipt.

15. It is further ordered that Defendants and Relief Defendant shall immediately take all steps within their power to repatriate all funds, securities, assets and other property held by, under the control of, or in the name of the Defendants or Relief Defendant, whether individually or jointly, outside the United States, including but not limited to all funds on deposit in any firms, banks, financial or brokerage institutions, futures commissions merchants, or other financial institutions, by paying them to the Clerk of the Court or as otherwise ordered by the Court, for further disposition in this case provided, however, that neither this Paragraph nor this Order shall cover or otherwise apply to the Excluded Accounts or the Adams Automobiles identified in Paragraph 4 of this Order.

III. BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED THAT:

Pursuant to Section 6(c) of the Act, 7 U.S.C. § 13a-1, no bond need be posted by the Plaintiff, CFTC, which is an agency of the United States of America.

IV. STAY

IT IS FURTHER ORDERED THAT:

Except by leave of the Court, the Defendants, Relief Defendant and all other persons or 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 or Relief Defendant, 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 Relief Defendant or any property claimed by the Defendant or Relief Defendant, or attempting to foreclose, forfeit, alter or terminate any of the Defendants' or Relief Defendant's interests in property, whether such acts are part of a judicial proceedings 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 Relief Defendant; and
- D. Doing any act or thing to interfere with the exclusive jurisdiction of this Court over the property and assets of the Defendants or Relief Defendant. This paragraph does not stay the commencement or continuation of an action or proceeding by a governmental unit or agency to enforce said entity's police or regulatory power.

V. DIRECTIVES TO FINANCIAL INSTITUTIONS

IT IS FURTHER ORDERED, pending further Order of this Court, that any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants or Relief Defendant, or has held, controlled, or maintained custody of any account (other than the Excluded Accounts or the Adams Automobiles identified in Paragraph 4 of this Order) or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants or Relief Defendant at any time since September 6, 2006, shall:

- A. Provide counsel for the CFTC, within five (5) business days of receiving a copy of this Order, a statement setting forth: (a) the identification number of each and every such account or asset titled in the name, individually or jointly, of the Defendants and Relief Defendant, or owned, controlled, managed, or held by, on

behalf of, or for the benefit of the Defendants or Relief Defendant; (b) the balance of each such account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and (c) the identification of any safe deposit box that is either titled in the name, individually or jointly, of the Defendants or Relief Defendant or is otherwise subject to access by the Defendants or Relief Defendant; and

- B. Upon request by the CFTC, promptly provide the CFTC with copies of all records or other documentation pertaining to such account or asset, 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 instructions or slips, currency transactions reports, 1099 forms, and safe deposit box logs.

VI. SERVICE OF THE ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including by way of personal service, Federal Express or other commercial overnight service, email or facsimile or pursuant to Federal Rule of Civil Procedure 4 and Articles 2 through 10 of the Hague Convention, Service Abroad of Judicial and Extrajudicial Documents, 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 Relief Defendant, or that may be subject to any provision of this Order. Joy H. McCormack, an employee of the CFTC, is hereby specially appointed to serve process, and/or effectuate service of process, including this Order and all other papers in this cause.

VII. 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 Plaintiff Commission by delivering a copy to Elizabeth Streit, Trial Team Leader, or Brigitte Weyls, Trial Attorney,

Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

VIII. COURT MAINTAINS JURISDICTION

IT IS FURTHER ORDERED that this Preliminary Injunction shall remain in full force and effect during the pendency of this case, or until further order of this Court, upon application, notice and an opportunity to be heard, and that this Court retains jurisdiction of this matter for all purposes related to this action.

Dated: April 10, 2009

CONSENT TO AND APPROVED BY:

/s/ Richard Hellerman

Howard J. Swibel
Richard K. Hellerman
Arnstein & Lehr LLP
120 S. Riverside Plaza, Suite 1200
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(312) 876-7100

/s/ Elizabeth Streit

Elizabeth Streit
Brigitte Weyls
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525 W. Monroe, #1100
Chicago, IL 60661
(312) 596-0700

John M. Marshall, Individually
and on behalf of Brookshire Raw
Materials Management, LLC,
Brookshire Raw Materials Group, Inc.
Brookshire and Company, Ltd. and
Relief Defendant, Brookshire Raw
Materials Group Trust

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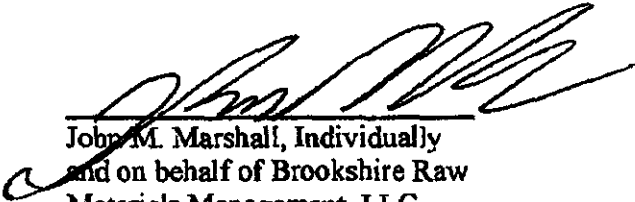
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Dated: April 9, 2009

CONSENT TO AND APPROVED BY:

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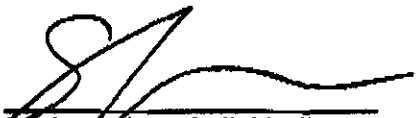
Dated: April 9, 2009

CONSENT TO AND APPROVED BY:

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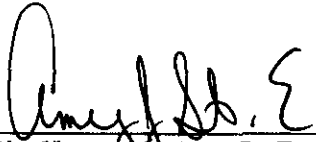
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Materials Group Trust



Stephen Adams, Individually
and on behalf of Brookshire Raw
Materials Management, LLC,
Brookshire Raw Materials Group, Inc.
Brookshire and Company, Ltd. and
Relief Defendant, Brookshire Raw
Materials Group Trust

IT IS SO ORDERED.



The Honorable Amy St. Eve
UNITED STATES DISTRICT JUDGE
Northern District of Illinois

Dated: April 13, 2009