

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

ORIGINAL
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E-filing

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

4 UNITED STATES COMMODITY FUTURES)
5 TRADING COMMISSION,)

6 Plaintiff,)

7 vs.)

8 SNC ASSET MANAGEMENT, INC., SNC)
9 INVESTMENTS, INC., PETER SON and)
10 JIN K. CHUNG,)

11 Defendants,)

12 and,)

13 ANN LEE,)

14 Relief Defendant.)
15

CY 09 Civil Action No. 2555 PJH

(Proposed) ORDER GRANTING
PLAINTIFF'S *EX PARTE*
APPLICATION FOR STATUTORY
RESTRAINING ORDER, ORDER
FOR AN ACCOUNTING, ORDER
GRANTING EXPEDITED
DISCOVERY, ORDER TO SHOW
CAUSE REGARDING
PRELIMINARY INJUNCTION,
AND OTHER EQUITABLE
RELIEF

16 *me* This matter came before the Court for hearing on June 9, 2009, on Plaintiff

17
18 U.S. Commodity Futures Trading Commission's ("Commission") *Ex Parte* Application for
19 Statutory Restraining Order, Order Requiring an Accounting, Order Granting Expedited
20 Discovery, Order to Show Cause Regarding Preliminary Injunction, and Other Equitable
21 Relief (the "Application"). The Court, having considered the Application and all other
22 evidence presented by the Commission, and having heard the arguments of counsel, finds
23 that:

24
25 1. This Court has jurisdiction over the parties and over the subject matter of this
26 action pursuant to Section 6c of the Commodity Exchange Act, 7 U.S.C. §§ 13a-1 and

27 (Proposed) Order Granting Plaintiff's *Ex Parte* Application for Statutory Restraining Order,
28 Order for An Accounting, Order Granting Expedited Discovery, Order to Show Cause
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1 2(c)(2)(B) and (C) (2006) (the “Act”), and Section 2(c)(2) of the Act as amended by the
2 Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC
3 Reauthorization Act (“CRA”)), §§ 13101-13204, 122 Stat. 1651(enacted June 18, 2008) (to
4 be codified at 7 U.S.C. § 2(c)(2)).
5

6 2. Venue lies properly within this District pursuant to Section 6c(e) of the Act,
7 7 U.S.C. § 13a-1(e) (2006).

8 3. There is good cause to believe that Defendants SNC Asset Management, Inc.,
9 (“SNC Asset”), SNC Investments, Inc., (“SNC Investments”) and their principals and control
10 persons, Peter Son (“Son”) and Jin K. Chung (“Chung”) (hereinafter collectively
11 “Defendants”) have engaged, are engaging, and are about to engage in acts and practices
12 constituting violations of the Act, as amended, to be codified at 7 U.S.C. § 1 *et seq.*,
13

14 4. There is good cause to believe that Relief Defendant Ann Lee (“Relief
15 Defendant”) has received, is receiving, and is about to receive funds, assets or property as a
16 result of Defendants’ violative acts and practices and has been unjustifiably enriched thereby.
17 The Relief Defendant does not have any legitimate interest or entitlement to these funds, assets
18 or property received as a result of Defendants’ violative conduct.
19

20 5. There is good cause to believe that immediate and irreparable damage to the
21 Court’s ability to grant effective final relief for customers in the form of monetary redress
22 will occur from the sale, transfer, assignment, or other disposition by Defendants and Relief
23 Defendant of assets or records unless Defendants and Relief Defendant are immediately
24 restrained and enjoined by Order of the Court.
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28 (Proposed) Order Granting Plaintiff’s *Ex Parte* Application for Statutory Restraining Order,
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1 6. Good cause exists for the freezing of assets owned, controlled, managed, or
2 held by, on behalf of, or for the benefit of Defendants and Relief Defendant (hereinafter
3 “assets”).

4 7. Good cause exists for entry of an order prohibiting Defendants and Relief
5 Defendant, their agents, servants, employees, assigns, attorneys, and persons in active concert
6 or participation with the Defendants and Relief Defendant, including any successor thereof,
7 from destroying records and/or denying agents of the Commission access to inspect and copy
8 records to ensure that Commission representatives have immediate and complete access to
9 those books and records.
10

11 8. Good cause exists to require an accounting to determine the location and
12 disposition of customer funds.
13

14 9. Good cause exists for the Plaintiff to conduct expedited discovery in order to
15 determine the full extent of Defendants’ alleged wrongdoing, locate Defendants’ other
16 customers, identify customers’ funds and other assets, and clarify the source of various funds.
17

18 10. Weighing the equities and considering the Commission’s likelihood of
19 success in its claims for relief, the issuance of a statutory restraining order is in the public
20 interest.
21

22 DEFINITIONS

23 For purposes of this Order, the following definitions apply:

24 11. The term “document” is synonymous in meaning and equal in scope to the
25 usage of the term in the Federal Rules of Civil Procedure (“FRCP”) 34(a), and includes, but
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28 (Proposed) Order Granting Plaintiff’s *Ex Parte* Application for Statutory Restraining Order,
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1 is not limited to, writings, drawings, graphs, charts, photographs, audio and video recordings,
2 computer records, and other data compilations from which information can be obtained and
3 translated, if necessary, through detection devices into reasonably usable form. A draft or
4 non-identical copy is a separate document within the meaning of the term.
5

6 12. The term "assets" means any legal or equitable interest in, right to, or claim
7 to, any real or personal property, whether individually or jointly, directly or indirectly
8 controlled, and wherever located, including but not limited to: chattels, goods, instruments,
9 equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries,
10 inventory, checks, notes, accounts (including, but not limited to, bank accounts and accounts
11 at other financial institutions), credits, receivables, lines of credit, contracts (including spot,
12 futures, or option contracts), insurance policies, and all cash.
13

14 13. "Defendants" shall mean and refer to not only SNC Asset Management, Inc.,
15 SNC Investments, Inc., Peter Son, and Jin Chung, but also to any d/b/a, successor, affiliate,
16 subsidiary, or other entity owned, controlled, managed, or held by, on behalf of, or for the
17 benefit of SNC Asset Management, Inc., SNC Investments, Inc., Peter Son, and/or Jin
18 Chung.
19

20 14. "Relief Defendant" shall mean and refer to not only Ann Lee, but also to any
21 d/b/a, successor, or other entity owned, controlled, managed, or held by, on behalf of, or for
22 the benefit of Ann Lee.
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28 (Proposed) Order Granting Plaintiff's *Ex Parte* Application for Statutory Restraining Order,
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1 **RELIEF GRANTED**

2 **I. Order Against Transfer, Dissipation, and Disposal of Assets**

3 **IT IS HEREBY ORDERED that:**

4 15. Defendants, Relief Defendant, and their agents, servants, employees, assigns,
5 attorneys, including any successor thereof, and persons in active concert or participation with
6 them, who receive actual notice of this Order by personal service or otherwise, are restrained
7 and enjoined from directly or indirectly transferring, selling, alienating, liquidating,
8 encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting,
9 withdrawing, or otherwise disposing of any of the assets, wherever located, including the
10 assets held outside the United States, except as provided in Section II of this Order, or as
11 otherwise ordered by the Court. The assets affected by this paragraph shall include both
12 existing assets and those assets acquired after the effective date of this Order.
13

14 16. Defendants and Relief Defendant are restrained and enjoined from directly or
15 indirectly opening or causing to be opened any safe deposit boxes titled in the name of or
16 subject to access by Defendants or Relief Defendant.
17

18 **II. Accounting and Transfer of Funds and Documents**

19 **IT IS FURTHER ORDERED,** that within five (5) business days following the
20 service of this Order, Defendants and Relief Defendant shall:
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22 17. Provide the Commission with a full detailed accounting of all funds,
23 documents, and assets, including the assets inside and outside of the United States that are
24 held by each and every Defendant or Relief Defendant, for their benefit, or under their direct
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1 or indirect control, whether jointly or singly;

2 18. Transfer to the territory of the United States and to the possession, custody,
3 and control of the Commission, all funds, documents, and assets, including the assets (other
4 than real property), located outside the United States that are held by each and every
5 Defendant or Relief Defendant, for their benefit, or under their direct or indirect control,
6 whether jointly or singly; and

7 19. Provide the Commission access to all records of Defendants and Relief
8 Defendant held by financial institutions located within or outside the territorial United States
9 by signing the Consent to Release of Financial Records (attached to this Order as attachments
10 A – E).

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12
13 **III. Directives to Financial Institutions and Others**

14 **IT IS FURTHER ORDERED**, pending further Order of this Court, that any
15 financial or brokerage institution, business entity, or person that holds or has held, controls or
16 has controlled, or maintains or has maintained custody of any of the assets at any time since
17 January 1, 2000, shall:

18 20. Prohibit Defendants, Relief Defendant, and all other persons from
19 withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing,
20 dissipating, converting, selling, or otherwise disposing of the assets, except as directed by
21 further Order of the Court;

22 21. Deny Defendants and Relief Defendant and all other persons (except for the
23 Commission or a Court appointed receiver) access to any safe deposit box that is: (a) owned,
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1 controlled, managed, or held by, on behalf of, or for the benefit of Defendants or Relief
2 Defendant, either individually or jointly, whether in the name, alias, or fictitious "doing
3 business as" name; or (b) otherwise subject to access by Defendants or Relief Defendant;
4

5 22. Provide counsel for the Commission within five (5) business days of receiving
6 a copy of this Order, a statement setting forth: (a) the identification number of each and
7 every account or other asset owned, controlled, managed, or held by, on behalf of, or for the
8 benefit of Defendants or Relief Defendant (as defined above), either individually or jointly;
9 (b) the balance of each such account, or a description of the nature and value of such asset as
10 of the close of business on the day on which this Order is served, and, if the account or other
11 asset has been closed or removed, the date closed or removed, the total funds removed in
12 order to close the account, and the name of the person or entity to whom such account or
13 other asset was remitted; and (c) the identification of any safe deposit box that is owned,
14 controlled, managed, or held by, on behalf of, or for the benefit of Defendants or Relief
15 Defendant, either individually or jointly, or is otherwise subject to access by Defendants or
16 Relief Defendant; and
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19 23. Upon request by the Commission, promptly provide the Commission and/or a
20 Receiver with copies of all records or other documentation pertaining to such account or
21 asset, including, but not limited to, originals or copies of account applications, account
22 statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts,
23 all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and
24 safe deposit box logs.
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28 (Proposed) Order Granting Plaintiff's *Ex Parte* Application for Statutory Restraining Order,
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1 **IV. Maintenance of Business Records**

2 **IT IS FURTHER ORDERED that:**

3 24. Defendants, Relief Defendant, and their agents, servants, employees, assigns,
4 attorneys, and persons in active concert or participation with the Defendants or Relief
5 Defendant, including any successor thereof, and all other persons or entities who receive
6 notice of this Order by personal service or otherwise, are restrained and enjoined from
7 directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in
8 any manner, directly or indirectly, any documents that relate to the business practices, or
9 business or personal finances of Defendants or Relief Defendant.
10
11

12 **V. Inspection and Copying of Books and Records**

13 **IT IS FURTHER ORDERED that:**

14 25. Representatives of the Commission shall be immediately allowed to inspect
15 the books, records, and other documents of Defendants, Relief Defendant, and their agents,
16 including, but not limited to, electronically stored information, tape recordings, and computer
17 discs, wherever they may be situated and whether they are in the person of Defendants,
18 Relief Defendant, or others, and to copy said documents, information and records, either on
19 or off the premises; and Defendants, Relief Defendant, and their agents, servants, employees,
20 assigns, attorneys, and persons in active concert or participation with the Defendants or Relief
21 Defendant, including any successor thereof, who receive actual notice of this Order by
22 personal service or otherwise, including facsimile or e-mail transmission, shall cooperate
23 fully with the Commission to locate and provide to representatives of the Commission all
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28 (Proposed) Order Granting Plaintiff's *Ex Parte* Application for Statutory Restraining Order,
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1 books and records of Defendants and Relief Defendant, wherever such books and records
2 may be situated, and to locate and provide to representatives of the Commission information
3 regarding the whereabouts of Defendants and Relief Defendant.
4

5 **VI. Order Granting Expedited Discovery**

6 **IT IS HEREBY ORDERED that:**

7 26. The Commission may conduct expedited discovery in advance of discovery
8 allowed by FRCP Rule 26, the Commission may take depositions of Defendants, ^{and} Relief
9 Defendant, ~~and non-parties~~ subject to two calendar days notice pursuant to FRCP 30(a) and
10

11 45; notice may be given personally, by facsimile, or by e-mail, and more than ten depositions
12 may be taken. *Depositions may be taken of non-parties subject to reasonable*

13 *notice, which, depending on the circumstances, may be two calendar days.*

14 **VII. Bond Not Required of Plaintiff**

15 **IT IS FURTHER ORDERED that:**

16 27. The Commission is an agency of the United States of America and,
17 accordingly, need not post a bond.

18 **VIII. Order to Show Cause**

19 **IT IS FURTHER ORDERED that:**

20 28. Defendants shall appear before this Court on the 22nd day of
21

22 June, 2009, at 3:00 p.m., before the Honorable

23 Maxine M. Chesney at the United States Courthouse for the

24 Northern District of California, 450 Golden Gate Avenue, San Francisco, California 94102,

25 to show cause, if there be any, why an Order for Preliminary Injunction should not be granted
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1 to prohibit further violations of the Act and why the other relief requested should not be
2 granted pending trial on the merits of this action.

3
4 29. Should any party wish to file a memorandum of law or other papers in
5 opposition to Plaintiff's Motion for a Preliminary Injunction, all papers shall be filed on or
6 before June 17, 2009, ^{at 2:00 PDT} and served via facsimile or overnight delivery to the
7 Commission's Washington D.C. office no later than 2:00 o'clock p.m. ^{PDT} on
8 June 17, 2009. Any reply papers shall be filed with the Court and
9 delivered to opposing counsel no later than 3:00 o'clock p.m. ^{PDT} on
10 June 19, 2009. Service of all papers shall be by electronic mail,
11
12 facsimile, or personal service.

13 **IX. Service**

14 **IT IS FURTHER ORDERED that:**

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16 30. Copies of this Order may be served by any means, including facsimile and e-
17 mail transmission, upon any entity or person that may have possession, custody, or control of
18 any documents or the assets that may be subject to any provision of this Order, and,
19 additionally, that Luke Marsh, Toye Olarinde, Gretchen Lowe, Kara Mucha, Michelle
20 Bougas, and representative(s) of the U.S. Marshal Service are specially appointed by the
21 Court to effect service. Further, service of the Summons, Complaint, or other process may
22 be effected by any Commission representative, any U.S. Marshal or deputy U.S. Marshal, or
23 in accordance with FRCP 4, and service on corporate entities may be effected by serving the
24 Summons, Complaint, or other process via overnight delivery to the registered agent of said
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28 (Proposed) Order Granting Plaintiff's *Ex Parte* Application for Statutory Restraining Order,
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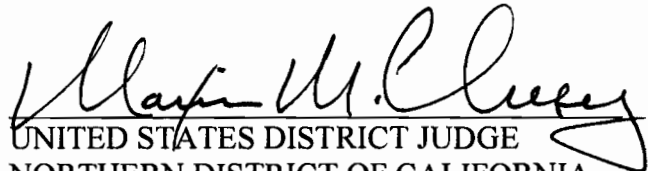
1 corporate entities.

2 **X. Force and Effect**

3 **IT IS FURTHER ORDERED** that:

4 **8:00 a.m. on June 24, 2009 or until**
31. This Order shall remain in full force and effect until further order of this Court
5 and that this Court retains jurisdiction of this matter for all purposes.
6

7 **IT IS SO ORDERED**, on the 10th day of June, 2009 at 8:00 a.m. PDT

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11 UNITED STATES DISTRICT JUDGE
12 NORTHERN DISTRICT OF CALIFORNIA
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28 (Proposed) Order Granting Plaintiff's *Ex Parte* Application for Statutory Restraining Order,
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