

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

**CASE NO. 12-21047-CIV-COOKE**

**U.S. COMMODITY FUTURES  
TRADING COMMISSION,**

Plaintiff,

v.

**ABRAHAM GUTTERMAN,  
ALLIANCE CAPITAL METALS  
LLC, and AR GOLDMAN WEALTH  
MANAGEMENT, LLC d/b/a U.S.  
PRINCIPAL FINANCIAL SERVICES,**

Defendants.

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**STATUTORY RESTRAINING ORDER**

Having read the Complaint for Injunctive and Other Equitable Relief, the Plaintiff's Motion for an *ex parte* Statutory Restraining Order, the Memorandum in Support of Plaintiff's Motion for a Statutory Restraining Order, the Declarations of Joseph Patrick, Jarrell Sam Abbey, Sandra Osborn, Paul Plante, Stephen Wood and Ann Grady, and the Attachments thereto, and all other papers filed herein by the Plaintiff, Commodity Futures Trading Commission ("CFTC"),

**THE COURT FINDS:**

1. The Court has jurisdiction over the parties and over the subject matter of this case.
2. Section 6c(a) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 13a-1(a), 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 the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No.

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111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§ 701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, authorizes this Court to enter an *ex parte* statutory restraining order against Defendants Abraham Gutterman (“Gutterman”), Alliance Capital Metals LLC (“ACM”) and AR Goldman Wealth Management, LLC, d/b/a U.S. Principal Financial Services (“ARGWM”).

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

4. It appears to the satisfaction of the Court that there is good cause to believe that the Defendants, have engaged, are engaging in and are about to engage in violations of §4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 32.9 and 33.10, 17 C.F.R. §§ 32.9, 33.10 (2011).

5. There is good cause to believe further that customers may be cheated and defrauded and that immediate and irreparable damage to the Court’s ability to grant effective final relief for customers in the form of monetary redress will occur from the destruction of records unless the Defendants are immediately restrained and enjoined by Order of this Court and, accordingly, there is good cause to issue this Order.

### **ORDER**

### **DEFINITIONS**

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

6. “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,

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accounts including bank accounts and accounts at financial institutions, brokerage firms or futures commissions merchants, credits, receivables, lines of credit, contracts including spot and futures contracts, insurance policies, and all cash, wherever located.

7. “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, 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.

8. “Defendants” means Gutterman, ACM and ARGWM, and any person insofar as he or she is acting in the capacity as an officer, agent, servant, employee or attorney of any of the Defendants, individually or jointly, and 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.

**RELIEF GRANTED**

**STATUTORY RESTRAINING ORDER**

**I. ASSET FREEZE**

**IT IS ORDERED** that Defendants and all persons insofar as they are acting in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise, including Federal Express or other commercial overnight service, email or facsimile, is restrained and enjoined from directly or indirectly dissipating, selling, alienating,

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liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, converting or otherwise disposing of any cash, cashier's checks, funds, assets or other property, wherever located, including funds, property or assets held outside the United States, except as ordered by the Court. The assets affected by this Paragraph shall include all of those within the custody, control or actual or constructive possession of Defendants, including, but not limited to, all funds, personal property, money or securities held in Defendants' name, all funds on deposit in any safety deposit box, financial institution, futures commission merchant ("FCM"), custodian, brokerage firm, bank or savings and loan account held by, under the actual or constructive control, or in the name of Defendants, all funds or property of Defendants' customers, wherever located, whether held in the name of the Defendants, individually or jointly, or any other entity owned or controlled by Defendants, or held on behalf of the Defendants. The assets affected by this Paragraph shall include both existing assets and assets acquired after the effective date of this Order, as well as accounts held at the institutions specifically identified below.

**IT IS FURTHER ORDERED** that, pending further Order of this Court, any bank, financial or brokerage firm, FCM, or business entity, or person that holds, controls, or maintains custody of any funds, assets or other property of Defendants, or has held, controlled, or maintained custody of any funds, assets or other property of Defendants, including, but not limited, to JP Morgan Chase Bank, N.A., TD Bank, N.A. and Wells Fargo Bank, N.A. and who receive notice of this Order by any means, including facsimile, electronic mail, United Parcel Service, Federal Express or other commercial overnight service, shall:

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A. Prohibit Defendants 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 all other persons access to any safe deposit box that is:

1. titled in the name of Defendants, either individually or jointly; or maintained by nominees of Defendants; or
2. otherwise subject to access by the Defendants;

C. Provide counsel for the CFTC within five (5) business days of receiving a copy of this Order, a statement setting forth:

1. the identification number of each such account or asset titled in the name of Defendants, individually or jointly, or held on behalf of, or for the benefit, of the Defendants;

2. 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 other asset was remitted; and

3. the identification of any safe deposit box that is either titled in the name of Defendants, individually or jointly, or is otherwise subject to access by the Defendants;

D. Upon the 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,

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deposit tickets, wire transfers to and from the accounts, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs; and

E. Cooperate with all reasonable requests of the CFTC relating to implementation of this Order, including producing records related to Defendants' accounts and businesses.

## **II. PROHIBITION OF DESTRUCTION OF BOOKS AND RECORDS**

**IT IS FURTHER ORDERED** that Defendants 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 facsimile, email or Federal Express or other commercial overnight service, 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, wherever located, including all such records concerning the Defendants' business operations.

## **III. ACCESS TO AND INSPECTION OF BOOKS AND RECORDS**

**IT IS FURTHER ORDERED** that Defendants 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 their agents, including all such records of Defendants' business operations, wherever they are situated and whether they are in the possession of the Defendants 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

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Defendants or others, and to copy said documents, data and records, either on or off the premises where they may be situated.

**IV. BOND NOT REQUIRED OF PLAINTIFF**

**IT IS FURTHER ORDERED THAT** pursuant to Section 6c(b) of the Act, 7 U.S.C. § 13a-1(b), no bond need be posted by the Commission, which is an agency of the United States of America.

**V. SERVICE OF ORDER AND ASSISTANCE OF U.S. MARSHAL'S SERVICE**

**IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including facsimile transmission, electronic mail, United Parcel Service and Federal Express or other commercial overnight service, upon any financial institution, FCM, bank, brokerage firm or other entity or person that may have possession, custody, or control of any documents or assets of the Defendants, or that may be subject to any provision of this Order. Joseph Patrick and Nancy Hooper, employees of the CFTC, are hereby specially appointed to serve process, including this Order and all other papers in this cause.

**IT IS FURTHER ORDERED** that the United States Marshals Service is directed to assist the CFTC with service of process, including the summons and Complaint and all other papers in this case, as well as assist the CFTC with taking control and custody of the assets, records and business premises of Defendants.

**VI. SERVICE ON THE COMMISSION**

**IT IS FURTHER ORDERED** that the Defendants shall serve all pleadings, correspondence or notices required by this Order, and other materials on the CFTC by delivering

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a copy to, Robert Howell, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

**VII. COURT MAINTAINS JURISDICTION**

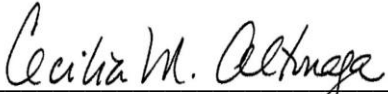
**IT IS FURTHER ORDERED** that this Statutory Restraining Order shall remain in full force and effect until further Order of this Court, upon application, notice and an opportunity to be heard, and that this Court retains jurisdiction of this matter for all purposes.

**VIII. FURTHER COURT HEARINGS**

**IT IS FURTHER ORDERED** that Plaintiff's Motion for a Preliminary Injunction is set for hearing on **April 11, 2012**, at **2:30 p.m.**, before the Honorable Marcia G. Cooke at the United States Courthouse for the Southern District of Florida.

**IT IS SO ORDERED.**

Signed at 12 o'clock pm on the 15th day of March, 2012.

  
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**CECILIA M. ALTONAGA**  
**UNITED STATES DISTRICT JUDGE**