

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES COMMODITY FUTURES )  
TRADING COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. ) 1:10-cv-00737  
 )  
INTEGRA CAPITAL MANAGEMENT, )  
LLC, RODNEY W. WHITNEY, and )  
NICHOLAS T. COX, )  
 )  
Defendants. )

**EX PARTE STATUTORY RESTRAINING ORDER**

This matter is before the court on the Motion for Ex Parte Statutory Restraining Order ("Motion") and supporting declarations filed by Plaintiff United States Commodity Futures Trading Commission ("Commission"). (Docs. 2, 5, 6, 7, 8.)

Based on the representations to the court and for good cause shown,

The court finds it has jurisdiction over the subject matter of the complaint. Section 6c of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. § 13a-1 (2006), authorizes this court to enter a statutory restraining order.

The court finds that there is good cause to believe that Defendants Integra Capital Management LLC, Rodney W. Whitney and Nicholas T. Cox have engaged, are engaging, or are about to engage

in violations of Sections 4b(a)(2)(i), (ii) and (iii) of the Act, 7 U.S.C. §§ 6b(a)(2)(i), (ii) and (iii) (2006), for violations occurring before June 18, 2008, and Sections 4b(a)(1)(A), (B) and (C) and 4b(a)(2)(A), (B) and (C) of the Act, 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), to be codified at 7 U.S.C. §§ 6b(a)(1)(A), (B) and (C) and 6b(a)(2)(A), (B) and (C), for violations occurring after June 18, 2008; and Sections 4k(2), and 4o(1) of the Act, 7 U.S.C. §§ 6k(2) and 6o(1). It further appears that Integra Capital has engaged, is engaging, or is about to engage in violations of Section 4m(1) of the Act, 7 U.S.C. § 6m(1).

The court further finds that there is good cause to believe that immediate and irreparable damage to the court's ability to grant effective final relief to Defendants' customers in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by the Defendants of their assets or destruction of their books and records unless the Defendants are immediately restrained and enjoined by order of this court. Accordingly, there is good cause to issue this statutory restraining order.

The court further finds that this is a proper case for granting an ex parte statutory restraining order to identify all of the Defendants' commodity pool customers, preserve the status quo, and otherwise protect public customers from further loss and damage.

For the purposes of this statutory restraining order, the following definitions apply:

The term "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 including bank accounts and accounts maintained at any bank, financial institutions or futures commission merchants, credits, receivables, lines of credit, contracts including spot and futures contracts, insurance policies, and all cash, wherever located.

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 writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated through detection devices into reasonably usable form.

A draft or non-identical copy is a separate document for the purposes of this definition.

"Defendants" means Integra Capital Management LLC, Rodney W. Whitney and Nicholas T. Cox, and any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee or attorney of any Defendant, and any person who receives actual notice of this statutory restraining order by personal service or otherwise, including electronic mail, United Parcel Service, Federal Express and facsimile, insofar as he or she is acting in concert or participation with any Defendant.

IT IS THEREFORE ORDERED that Defendants are restrained and enjoined from directly or indirectly withdrawing, transferring, removing, dissipating, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, converting, or otherwise disposing of any assets, funds or other property, wherever located, including assets, funds or property held outside the United States, except as ordered by the court. The assets affected by this paragraph shall include both existing assets and assets acquired after the effective date of this statutory restraining order, as well as accounts not specifically identified herein.

IT IS FURTHER ORDERED that, pending further order of this

court, any bank, financial or brokerage institution, futures commission merchant, business entity, or person that holds, controls, or maintains custody of any funds, assets, accounts or other property belonging to or controlled or maintained by the Defendants, or has held, controlled, or maintained custody of any funds, assets, accounts or other property belonging to or controlled or maintained by the Defendants, and who receives notice of this order by any means, including facsimile, electronic mail, United Parcel Service and Federal Express, shall:

A. Prohibit Defendants and any other person from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such assets 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 or controlled by the Defendants, either individually or jointly; or

2. otherwise subject to access by the Defendants;

C. Provide counsel for the Commission within five (5) business days of receiving a copy of this statutory restraining order, a statement setting forth:

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

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

D. Upon request by the Commission, promptly provide the Commission 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 instruments or slips,

currency transaction reports, 1099 forms, and safe deposit box logs; and

E. Cooperate with all reasonable requests of the Commission relating to implementation of this temporary restraining order, including producing books and records related to Defendants' accounts and Defendants' businesses.

IT IS FURTHER ORDERED that the Defendants and all persons or entities who receive notice of this temporary restraining order by personal service or otherwise, including facsimile, electronic mail, United Parcel Service and Federal Express, are restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or business or personal finances of the Defendants.

IT IS FURTHER ORDERED that representatives of the Commission be allowed immediately to inspect the books, records, and other documents of the Defendants and their agents and employees including, but not limited to, electronically stored data, tape recordings, and computer discs, wherever they may be 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.

IT IS FURTHER ORDERED that the Commission need not post bond because it has made a proper showing, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1(b).

IT IS FURTHER ORDERED that copies of this temporary restraining order may be served by any means, including but not limited to facsimile transmission, electronic mail, United Parcel Service and Federal Express, upon any bank, financial institution, futures commission merchant 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. Joe Patrick, Eleanor Oh, and Venice Bickham, all employees of the Commission, are hereby specially appointed to serve process, including this temporary restraining order and all other papers in this cause.

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

IT IS FURTHER ORDERED that the Defendants shall serve all pleadings, correspondence, notices required by this temporary

restraining order, and other materials on the Commission by delivering a copy to David Slovick, Senior Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

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.

IT IS FURTHER ORDERED that Plaintiff's Motion for Preliminary Injunction is set for hearing on October 15, 2010, at 11:00 a.m. in Winston-Salem, North Carolina, Courtroom 2.

/s/ Thomas D. Schroeder  
United States District Judge

September 29, 2010