

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

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|----------------------------|---|------------------|
| U.S. COMMODITY FUTURES |) | |
| TRADING COMMISSION, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. |
| |) | 3:12cv203-MHT |
| |) | (WO) |
| JOHN DAVID STROUD, STROUD |) | |
| CAPITAL MANAGEMENT, LLC, |) | |
| TS CAPITAL PARTNERS, LLC, |) | |
| and TS CAPITAL MANAGEMENT, |) | |
| LLC, |) | |
| |) | |
| Defendants. |) | |

RESTRAINING ORDER

Having read plaintiff U.S. Commodity Futures Trading Commission's ("CFTC") complaint seeking injunctive and other equitable relief under the Commodity Exchange Act and reviewed the materials associated with its motion for statutory restraining order, the court finds:

1. Jurisdiction over the subject matter of this case is proper under § 6c of the Commodity Exchange Act, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, Title XIII, §§ 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. 111-203, Title VII, §§701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, which authorize this court to enter a statutory restraining order against defendants John David Stroud, Stroud Capital Management, LLC ("Stroud Capital"), TS Capital Partners, LLC ("TSCP"), and TS Capital Management, LLC ("TSCM").

2. Venue is proper pursuant to 7 U.S.C. § 13a-1(e).

3. There is good cause to believe that defendants have engaged, are engaging, and/or are about to engage in violations of the Commodity Exchange Act. Specifically, there is good cause to believe that Stroud and Stroud Capital have violated § 4b(a)(2)(I) and (iii) of that Act, 7 U.S.C. § 6b(a)(2)(I), (iii), with respect to acts committed before June 18, 2008; that each defendant violated § 4b(a)(1)(A)-(C) of the Act, as amended, to be codified at 7 U.S.C. § 6b(a)(1)(A)-(C), with respect to

acts committed on or after June 18, 2008, § 4b(a)(2)(A)-(C) of the Act, as amended, 7 U.S.C. § 6b(a)(2)(A)-(C) (2006 and Supp. 2009), with respect to acts committed on or after June 18, 2008, and prior to July 16, 2011, and §§ 4o(1)(A) and (B) and 4k(2) of the Act, 7 U.S.C. §§ 6o(1)(A) and (B) and 6k(2); that Stroud and TSCM have violated § 9(a)(4) of the Act, as amended, to be codified at 7 U.S.C. § 13(a)(4); and that Stroud, Stroud Capital, and TSCP have violated § 4m(1) of the Act, 7 U.S.C. § 6m(1).

4. There is good cause to believe that immediate and irreparable harm to the court's ability to grant effective final relief will occur from the sale, transfer, assignment, or other disposition by defendants of their assets or from the destruction of records, unless the defendants are immediately restrained by order of this court.

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

5. "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 at financial institutions), credits, receivables, lines of credit, securities, contracts (including spot and futures contracts), insurance policies, and all cash, wherever located.

6. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of the term.

7. "Defendants" refers to John David Stroud, Stroud Capital Management, LLC, TS Capital Partners, LLC, and TS Capital Management, LLC, any person insofar as he or she is acting in the capacity of an officer, agent, servant, or employee of any defendant, and any person who receives

actual notice of this order by personal service or otherwise, including electronic mail, facsimile, United Parcel Service, or Federal Express, insofar as he or she is acting in concert or participation with any defendant.

Based on the foregoing, it is ORDERED that plaintiff U.S. Commodity Futures Trading Commission's motion for a statutory restraining order (doc. no. 8) is granted and the defendants are restrained and enjoined from, directly or indirectly, withdrawing, transferring, removing, dissipating, or otherwise disposing of any funds, assets, or other property, wherever located, including funds, assets, or other property held outside the United States, except as ordered by the court. The assets affected by this paragraph include both existing assets and assets acquired after the effective date of this order, as well as accounts not specifically identified below.

It is FURTHER ORDERED that, pending further order of this court, any bank, financial or brokerage institution, entity, or person that holds, controls, or maintains custody of any funds, assets, or other property of the defendants, or has held, controlled, or maintained custody of any funds, assets, or other property of defendants, and who receives notice of this order by any means, including facsimile, electronic mail, United Parcel Service, or Federal Express, shall:

A. prohibit the defendants and any other person from withdrawing, removing, transferring, dissipating, 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:

i. titled in the name of or maintained by defendants, either individually, jointly, or in any other capacity, including safe deposit boxes titled in the name of or maintained by nominees of any defendant; or

ii. otherwise subject to the control of or access by any defendant; and

C. cooperate with all reasonable requests of the CFTC relating to implementation of this order, including producing records related to the defendants' accounts and businesses.

It is FURTHER ORDERED that the defendants and all persons or entities who receive notice of this order by personal service or otherwise, including electronic mail, facsimile, United Parcel Service, or 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 operations or practices, or the business or personal finances, of the defendants.

It is FURTHER ORDERED that representatives of the CFTC be allowed immediately to inspect the books, records, and other documents of defendants and their

agents, 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 books, records, and other documents.

It is FURTHER ORDERED that copies of this order may be served by any means, including personal service, United Parcel Service, Federal Express, or other commercial overnight service, email, facsimile, Rule 5 of the Federal Rules of Civil Procedure, or Articles 2 through 10 of the Hague Convention, 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 that may be subject to any provision of this order. Joseph Patrick and Venice Bickham, both employees of the CFTC, are hereby specially appointed to serve process, including of this order and all other papers in this case.

It is FURTHER ORDERED that the U.S. Marshals Service is directed to assist the CFTC with service of process, including of the summons and complaint and all other papers in this case.

It is FURTHER ORDERED that, pursuant to 7 U.S.C. § 13a-1(b), no bond need be posted by the CFTC.

It is FURTHER ORDERED that the defendants shall serve all pleadings, correspondence, notices required by this order, and other materials on the CFTC by delivering a copy to Stephanie Reinhart, Senior Trial Attorney, Division of Enforcement, U.S. Commodity Futures Trading Commission, 525 W. Monroe St., Suite 1100, Chicago, Illinois, 60661 and/or by filing such pleadings or other materials electronically with the court.

It is FURTHER ORDERED that this matter is set for a status conference on March 16, 2012, at 10:00 a.m., at the Frank M. Johnson, Jr. United States Courthouse Complex, Courtroom 2FMJ, One Church Street, Montgomery, Alabama, and that plaintiff U.S. Commodity Futures

Trading Commission's motion for preliminary injunction (doc. no. 9) is set for hearing on April 3, 2012, at 10:00 a.m. at the Frank M. Johnson, Jr. United States Courthouse Complex, Courtroom 2FMJ, One Church Street, Montgomery, Alabama. This 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.

DONE, this the 7th day of March, 2012.

 /s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE