

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

12 CV 3754

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

CTI GROUP, LLC, COOPER TRADING, STEPHEN
CRAIG SYMONS, and JAMES DAVID KLINE,

Defendants,

and

SNONYS, INC. and DRAGONFYRE MAGICK
INCORPORATED,

Relief Defendants.

Case No. _____

**EX PARTE
STATUTORY RESTRAINING
ORDER FREEZING ASSETS,
PROHIBITING THE
DESTRUCTION OR
ALTERATION OF
DOCUMENTS, GRANTING
EXPEDITED DISCOVERY,
ORDERING AN ACCOUNTING
OF ASSETS, AND ORDER TO
SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT BE GRANTED**

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DO#: _____
FILE FILED: 5-14-12

Plaintiff U.S. Commodity Futures Trading Commission (“Commission”) has filed a Complaint for Injunctive and Other Equitable Relief and Civil Monetary Penalties under the Commodity Exchange Act (the “Act”) and moved, pursuant to Section 6(c) of the Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), Pub. L. No. 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. § 13a-1, for an *ex parte* statutory restraining order freezing assets, prohibiting the destruction or alteration of documents, granting expedited discovery, ordering that the Defendants and Relief Defendants permit the inspection of documents and provide an accounting of assets, and ordering the Defendants to show cause why a preliminary injunction should not be issued.

The Court has considered the pleadings, the declaration of Michael C. McLaughlin, and the memorandum of law filed in support of the Commission's application and now, being fully advised in the premises, finds that:

1. This Court has jurisdiction over the parties and over the subject matter of this action pursuant to Section 6c of the Act, as amended, to be codified at 7 U.S.C. § 13a-1.
2. Venue lies properly within this District pursuant to Section 6c(e) of the Act, to be codified at 7 U.S.C. § 13a-1(e).
3. There is good cause to believe that Defendants CTI Group, LLC and Cooper Trading (referred to herein collectively as the common enterprise, "CTI") as well as Stephen Craig Symons and James David Kline (collectively, the "Defendants") have engaged, are engaging, and are about to engage in acts and practices constituting violations of the Act, 7 U.S.C. §§ 1, *et seq.*, and Commission Regulations.
4. There is good cause to believe that Relief Defendants Snonys, Inc. and Dragonfyre Magick Incorporated (collectively, the "Relief Defendants") are owned or operated by Symons and Kline, respectively, that the Relief Defendants have received funds from CTI, that those funds are the fruits of Defendants' violations of the Act and Commission Regulations, and that the Relief Defendants do not have a legitimate entitlement to those funds.
5. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief in the form of monetary redress for CTI's clients will occur from the sale, transfer, assignment, or other disposition by the Defendants and Relief Defendants of assets or documents unless the Defendants and Relief Defendants are immediately restrained and enjoined by Order of the Court.

6. Good cause exists for the freezing of assets owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants and Relief Defendants.

7. Good cause exists for entry of an order prohibiting the Defendants and Relief Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendants and Relief Defendants, including any successors thereof, from destroying documents or denying Commission representatives immediate access to inspect and copy documents to ensure that Commission representatives have immediate and complete access to those documents.

8. Good cause exists for the Commission to conduct expedited discovery in order to determine the full extent of Defendants' alleged wrongdoing, locate clients or prospective clients of the Defendants, and identify assets of Defendants.

9. This is a proper case for granting a statutory restraining order to preserve the status quo, protect CTI's clients from loss and damage, and enable the Commission to fulfill its statutory duties.

I.

DEFINITIONS

For purposes of this Order, the following definitions apply:

10. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure ("FRCP") 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.

11. “Assets” mean any legal or equitable interest in, right to, or claim to, any real or personal property, whether individually or jointly, direct or indirect, and wherever located, including, but not limited to: chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts (including, but not limited to, bank accounts and accounts at financial institutions), credits, receivables, lines of credit, contracts (including spot, futures, or options contracts), insurance policies, and all cash, wherever located.

12. “Defendants” shall mean any of the following:

- A. CTI Group, LLC, Cooper Trading, Stephen Craig Symons (“Symons”), and James David Kline (“Kline”).
- B. Any entity that is holding, or has held, itself out to clients or prospective clients as: CTI, CTI Group, CTI Group, LLC, Cooper Trading, Cooper Trading, Inc., Cooper Trading Incorporated, or www.autofuturetrading.com.
- C. Any d/b/a, successor, affiliate, subsidiary or other entity directly or indirectly owned by, controlled by, managed by, or held by, on behalf of, or for the benefit, of any person or entity referred to in 12.A or B, above.
- D. Any person or entity who receives actual notice of this Order by personal service or otherwise, insofar as that person or entity is acting in concert or participation with any of the Defendants, including but not limited to any person or entity for which Symons or Kline serve as an employee, officer, agent, consultant (or other similar position) or from which Symons or Kline directly or indirectly receive compensation.

13. “Relief Defendants” shall mean any of the following:

- A. Snonys, Inc. and Dragonfyre Magick Incorporated.
- B. Any d/b/a, successor, affiliate, subsidiary or other entity directly or indirectly owned, controlled, managed, or held by, on behalf of, or for the benefit, of Snonys, Inc. or Dragonfyre Magick Incorporated.
- C. Any person or entity who receives actual notice of this Order by personal service or otherwise insofar as such person or entity is acting in concert or participation with any of the Relief Defendants.

II.

RELIEF GRANTED

Order Against Transfer, Dissipation, and Disposal of Assets

IT IS HEREBY ORDERED that:

14. Defendants and Relief Defendants, and their agents, servants, employees, assigns, and attorneys, who receive actual notice of this Order by personal service or otherwise, are immediately restrained and enjoined from directly or indirectly transferring, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing of any of Defendants or Relief Defendants' Assets, wherever located, including Defendants and Relief Defendants' Assets held outside the United States, except as provided in Section III of this Order, or as otherwise ordered by the Court. The Assets affected by this paragraph shall include both existing Assets and Assets acquired after the effective date of this Order.

15. Defendants and Relief Defendants and their agents, servants, employees, assigns, and attorneys, are restrained and enjoined from directly or indirectly opening or causing to be

opened any safe deposit boxes titled in the name of, or subject to access by the Defendants or Relief Defendants.

III.

Accounting and Transfer of Funds and Documents

IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, Defendants and Relief Defendants shall:

16. Provide the Commission with a full accounting of all of the Defendants and Relief Defendants' Assets, both inside and outside of the United States, which are (1) titled in the name of any of the Defendants or Relief Defendants; (2) held by any person or entity for the benefit of any of the Defendants or Relief Defendants; or (3) under any of the Defendants or Relief Defendants' direct or indirect control;

17. Transfer to the territory of the United States all funds, documents, and Assets (other than real property) located outside the United States that are held by each and every Defendant and Relief Defendant for their benefit, or under their direct or indirect control, whether jointly or singly; and

18. Provide the Commission access to all records of accounts or Assets of any Defendants or Relief Defendants held by financial institutions located within or outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order.

IV.

Directives to Financial Institutions and Others

IT IS FURTHER ORDERED, pending further Order of this Court, that any financial or brokerage institution, business entity, or person that holds or has held, controls or has controlled,

or maintains or has maintained custody of any of the Defendants or Relief Defendants' Assets at any time since January 1, 2009, that receives notice of this Order by personal service or otherwise shall:

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

20. Deny Defendants and Relief Defendants and all other persons access to any safe deposit box that is: (a) owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants or Relief Defendants, either individually or jointly; or (b) otherwise subject to access by Defendants or Relief Defendants;

21. Provide counsel for the Commission, within five (5) business days of receiving a copy of this Order, a statement setting forth: (a) the identification number of each and every account or other Asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants or Relief Defendants, either individually or jointly; (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 owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants or Relief Defendants, either individually or jointly, or is otherwise subject to access by the Defendants or Relief Defendants; and

22. 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, Internal Revenue Service Form 1099s, and safe deposit box logs.

V.

Maintenance of Business Records

IT IS FURTHER ORDERED that:

23. Defendants, Relief Defendants, and their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendants and Relief Defendants, including any successor thereof, and all other persons or entities who receive notice of this Order by personal service or otherwise, are immediately 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 directly or indirectly to Defendants' business or the business or personal finances of Defendants, Relief Defendants, and their subsidiaries or affiliates.

VI.

Inspection and Copying of Books and Records

IT IS FURTHER ORDERED that:

24. Representatives of the Commission (including any third-party vendors engaged by the Commission) shall immediately be allowed to inspect the books, records, and other documents of the Defendants and Relief Defendants, including but not limited to, electronically

stored information, computer storage media, tape recordings, mobile devices and/or smart phones, wherever they may be situated and whether they are in the possession of the Defendants Relief Defendants or others, and to copy said documents, information and records, either on or off the premises where they may be situated.

25. Defendants and Relief Defendants shall, within 24 hours of the service of this Order, cause to be prepared and delivered to the Commission, a detailed and complete schedule of all desk top computers, laptop computers and/or any other electronic storage devices or mobile devices, including, without limitation, smart phones and personal digital assistants (collectively, "Computing Devices"), wherever located, that are owned or used by them in connection with Defendants' business. The schedules required by this section shall include at a minimum the make, model and description of each Computing Device, along with its location, the name of the person primarily assigned to use the Computing Device, and all passwords necessary to access and use the software contained on the Computing Device. The Commission shall be authorized to make an electronic, digital or hard copy of all of the data contained on the Computing Devices.

26. The Defendants and Relief Defendants (as well as their officers, employees, agents, contractors, and consultants who receive actual notice of this Order by personal service or otherwise) shall cooperate fully with the Commission to locate and provide to representatives of the Commission all documents, books and records of the Defendants and Relief Defendants, wherever such documents, books and records may be situated, and to locate and provide to representatives of the Commission information regarding the whereabouts of Defendants and Relief Defendants.

VII.

Order Granting Expedited Discovery

IT IS HEREBY ORDERED that:

27. The Commission may conduct expedited discovery to enable the Commission to fulfill its statutory duties and protect CTI's clients from further loss or damage. This expedited discovery will allow the Commission to determine the full extent of Defendants' alleged wrongdoing (including, but not limited to, the possible involvement of others), locate Defendants' victims, and identify the Defendants and Relief Defendants' Assets.

28. The prohibition upon discovery before the early meeting of counsel is removed pursuant to FRCP 26(d)(1).

29. The prohibition upon the immediate commencement of depositions is removed pursuant to FRCP 30(a)(2).

30. The parties may proceed to take the deposition of any person upon two calendar days' notice, and such notice may be given personally, by facsimile, or by electronic mail, and if necessary, more than ten depositions may be taken and any deposition may last more than seven hours.

VIII.

Bond Not Required of Plaintiff

IT IS FURTHER ORDERED that:

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

CONSENT TO RELEASE OF FINANCIAL RECORDS

I, _____, a resident of _____, do hereby direct any bank, trust, or other financial company, as well as any of its officers, employees, and agents, at which I have or had a bank account or other financial account of any kind operated under my name or any other name (including any corporation or other entity) for which I am or was authorized to draw on the account, to disclose all information and deliver copies of all documents of every nature in the bank's, trust's, or other financial company's possession or control which relate to said bank or other financial accounts to any attorney of the U.S. Commodity Futures Trading Commission, and to give evidence relevant thereto, in the matter of *U.S. Commodity Futures Trading Commission v. CTI Group, LLC, et al.*, Case No. _____, now pending before the United States District Court for the Southern District of New York, and this shall be irrevocable authority for so doing. This direction is intended to apply to the laws of countries other than the United States which restrict or prohibit the disclosure of bank information without the consent of the holder of the account, and shall be construed as consent with respect thereto, and the same shall apply to any of the bank accounts or other financial accounts for which I may be a relevant principal.

Dated: _____

Signature: _____

Print name: _____

IX.

Order to Show Cause

IT IS FURTHER ORDERED that:

32. The Defendants shall appear before this Court, before the Honorable Andrew L. Carter, Jr., at the United States Courthouse, 500 Pearl Street, Room _____, in the City, County, and State of New York, on the 21 day of June, 2012, at 2 a.m./p.m., to show cause, if there be any, why an Order of Preliminary Injunction should not be granted to prohibit further violations of the Act and Commission Regulations and why the other relief requested in the Complaint should not be granted pending trial on the merits of this action.

33. Should any party wish to file a memorandum of law or other papers in opposition to the Commission's Application, all papers shall be filed on or before June 6, 2012 no later than 6 o'clock a.m./p.m. and served via electronic mail, facsimile, or overnight delivery to the Commission's New York office no later than 6 o'clock a.m./p.m. Any reply papers shall be filed with the Court and delivered to opposing counsel by email, facsimile, or overnight delivery, no later than 6 o'clock p.m. on June 14, 2012.

X.

Service

IT IS FURTHER ORDERED that:

34. Copies of this Order may be served by any means, including facsimile transmission or email, 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 Defendants that may be subject to any provision of this Order, and, additionally, that Stephen

Painter Jr., Michael McLaughlin, David MacGregor, Laura Martin, Jeremy Christianson, Shannon Perkins, Tracy Walraven, Bobby Williams, or any representatives thereof, and the U.S. Marshal (C.D. Cal.) are specially appointed by the Court to effect service. Service on corporate entities may be effected by serving Summons, Complaint, or other process via overnight delivery to the registered agent of said corporate entities.

35. The U.S. Marshal (C.D. Cal.) is authorized to assist Commission representatives in effecting service of this Order, summons and Complaint on Defendants and Relief Defendants in accordance with FRCP 4, and assist in the execution of this Order. The U.S. Marshal (C.D. Cal.) is permitted to assist Commission representatives in the carrying out of the seizure of documents as set forth in this Order and to accompany Commission personnel to any location necessary (and to secure such location) to effectively execute this Order. The U.S. Marshal (C.D. Cal.) is further authorized to take any and all necessary actions, including but not limited to the use of reasonable force, to enter and remain at any location as is necessary for the effective execution of this Order, which includes, but is not limited to, land, buildings, vehicles and any structures located thereon, and to enable Commission representatives to do the same, for the purpose of executing this Order. The U.S. Marshal (C.D. Cal.) is further authorized to arrest and/or evict any and all persons who obstruct, attempt to obstruct, or interfere or attempt to interfere, in any way with the execution of this Order.

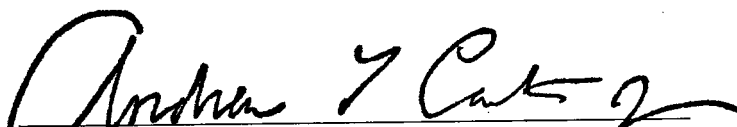
This order shall be served on Defendants by
May 16, 2012.

XI.

Force and Effect

IT IS FURTHER ORDERED that this Order shall remain in full force and effect until further order of this Court and that this Court retains jurisdiction of this matter for all purposes.

IT IS SO ORDERED, at _____, on the 14 day of May 2012, at _____m.


UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK