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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

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MIDDLE DISTRICT OF FLORIDA
FT. MYERS, FLORIDA

UNITED STATES COMMODITY
FUTURES TRADING COMMISSION,

Plaintiff,

v.

Case No.: 2:15-cv-237-FtM-38CM

DORIAN A. GARCIA, individually and
d/b/a DG WEALTH MANAGEMENT,
COMMODITY PROJECTIONS and
PREDSYST LLC; DG WEALTH
MANAGEMENT; MACROQUANTUM
CAPITAL LLC; and UKUSA CURRENCY
FUND LP,

FILED UNDER SEAL

Defendants.

ORDER

This matter comes before the Court on Plaintiff United States Commodity Futures Trading Commission ("Commission" or "CFTC")'s Emergency *Ex Parte* Statutory Restraining Order filed under seal on April 14, 2015.

Contemporaneously with the instant Motion, the Commission filed a Complaint for Injunctive and Other Relief and Penalties. The Commission moves under Section 6c(a) of the Commodity Exchange Act (the "Act"), 7 U.S.C. § 13a-1(a), for an *ex parte* statutory restraining order freezing assets and prohibiting the destruction of books, records, or other documents. Having considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission's Motion for an *Ex Parte* Statutory Restraining Order, the Court finds as follows:

a. This Court has jurisdiction over the parties and over the subject matter of this action under Sections 2(c)(2) and 6c of the Act, 7 U.S.C. §§ 2(c)(2) and 13a-1 (2012), which authorize the Commission to seek injunctive relief against any person whenever it shall appear that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation, or order thereunder.

b. Venue lies properly within this District under Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012), in that Defendants are found, inhabit, or transact business in this District, and the acts and practices in violation of the Act have occurred, are occurring or are about to occur within this District.

c. The Commission presented evidence that from May 2010 through the present, Dorian A. Garcia, individually and as controlling person of DG Wealth Management, Macroquantum Capital LLC, and UKUSA Currency Fund LP, and at least two other unincorporated entities controlled by Garcia, Commodity Projections and PredSyst, LLC (collectively referred to as "Defendants"), fraudulently solicited at least eighty (80) individuals to invest approximately \$4.7 million in pooled retail off-exchange foreign currency contracts (commonly known as "forex") on a leveraged or margined basis, commodity options and a variety of other investment schemes. The Commission also presented evidence that Garcia made misrepresentations and omitted material facts to actual and prospective investors and pool participants by (1) falsely promising their principal was protected with a large cash and collateral account; (2) misrepresenting the total amount of funds managed; (3) falsely reporting historically large profits in existing trading accounts; and (4) failing to disclose that he

misappropriated investor funds. These representations and omissions, among others, operated as a fraud or deceit upon actual and prospective investors and pool participants. The Commission also presented evidence that Garcia's misrepresentations continued for more than four (4) years and became an integral part of Garcia's underlying fraud of operating a Ponzi scheme and misappropriating investor funds.

d. Weighing the equities and considering the Commission's likelihood of success in its claims for relief, the issuance of a statutory restraining order is in the public interest and there is good cause to believe that Defendants have engaged in, are engaging in, or are about to engage in fraudulent conduct in violation of Sections 4b(a)(2)(A)-(C), 4c(b), 4o(1) and 6(c)(1), of the Act, 7 U.S.C. §§ 6b(a)(2)(A)-(C), 6c(b), 6o(1) and 9(1) (2012), and Regulations 4.20(c), 5.2(b)(J)-(3), 33.10, and 180.1, 17 C.F.R. §§ 4.20(c), 5.2(b)(1)-(3), 33.10 and 180.1 (2014), and by failing to register in various capacities, in violation of Sections 2(c)(2)(C)(iii)(1)(cc), 4k(2) and 4m(1) of the Act, 7 U.S.C. §§ 2(c)(2)(C)(iii)(1)(cc), 6k(2) and 6m(1), and Regulations 3.12, 5.3(a)(2)(i)-(ii), 17 C.F.R. §§ 3.12, 5.3 (a)(2)(i), 5.3(a)(2)(ii) (2014).

e. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for pool participants in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by Defendants of assets or records unless Defendants are immediately restrained and enjoined by Order of the Court.

f. There is good cause for the Court to freeze assets owned, controlled, managed, or held by or on behalf of, or for the benefit of Defendants. Absent the entry

of this statutory restraining order, Defendants are likely to dissipate or transfer assets and destroy business records.

g. There is good cause for entry of an order prohibiting Defendants, their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with Defendants, including any successor thereof, from destroying records and/or denying agents of the Commission immediate and complete access to Defendants' books and records for inspection and copying.

h. This is a proper case for granting an *ex parte* statutory restraining order to preserve the status quo, protect public investors and pool participants from loss and damage, and enable the Commission to fulfill its statutory duties.

Accordingly, it is

ORDERED:

(1) Plaintiff United States Commodity Futures Trading Commission's Under Seal Emergency *Ex Parte* Statutory Restraining Order is **GRANTED in part and TAKEN UNDER ADVISEMENT.**

a. To the extent the Commission requests an *ex parte* statutory restraining order, the Motion is **GRANTED** as forth below.

b. To the extent the Commission requests the entry of a preliminary injunction, the Motion is **TAKEN UNDER ADVISEMENT.**

(2) For the purposes of this Order, the following definitions apply:

a. The term "assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, whether individually or jointly, directly or indirectly controlled, 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 other financial institutions), credits, receivables, lines of credit, contracts (including spot, futures, options, or swaps contracts), insurance policies, and all cash, wherever located, whether in the United States or outside the United States.

- b. 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, but is not limited to, all writings or printed matter of any kind, including without limitation: records, correspondence, memoranda, notes, rolodexes, address books, diaries, statistics, e-mail, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice or intra-office communications, telephone message slips, offers, notations of conversations, bulletins, drawings, plans, computer printouts, computer input or output, teletypes, facsimiles, invoices, worksheets, ledger books, books of accounts, and all drafts, alterations, modifications, changes and amendments of any of the foregoing. The term "document" also includes graphs, charts, photographs, phonographic record, audio and video recordings, computer records, meta data, and other data compilations from which

information can be obtained or translated, if necessary, through detection devices into reasonable usable form. The term "document" also refers to each document in your actual or constructive possession, including but not limited to: (i) all documents within your custody or control of any of your present or former agents, employers, employees, partners; and (ii) all documents that you have a legal or equitable right to obtain from another person. A draft or non-identical copy is a separate document within the meaning of the term. A document also includes the file and folder tabs associated with each original and copy.

- c. "Defendants" refer to Dorian A. Garcia, DG Wealth Management, Macroquantum Capital LLC, and UKUSA Currency Fund LP and any person insofar as they are acting in the capacity of an officer, agent servant, employee, or attorney of Defendants and any person who receives actual notice of this Order by personal service or otherwise insofar as he or she is acting in concert or participation with Defendants. Defendants also refer to any d/b/a, successor, affiliate, subsidiary, or other entity owned, controlled, managed, or held by, on behalf of, or for the benefit of Dorian A. Garcia.

RELIEF GRANTED

(3) ASSET FREEZE

IT IS HEREBY ORDERED that:

- a. Defendants and their agents, servants, employees, assigns, attorneys, and person in active concert or participation with them,

including any successor thereof, and persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, are immediately restrained and enjoined, except as otherwise ordered by this Court, from directly or indirectly: transferring, removing, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing of any assets, wherever located, including Defendants' assets held outside the United States.

- b. Defendants 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 Defendants.
- c. The assets affected by this Order shall include both existing assets and assets acquired after the effective date of this Order.

(4) MAINTENANCE OF AND ACCESS TO BUSINESS RECORDS

IT IS FURTHER ORDERED that:

- a. Defendants and all persons or entities who receive notice of this Order by personal service or otherwise, are restrained 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 Defendants.

(5) BOND NOT REQUIRED OF THE COMMISSION

IT IS FURTHER ORDERED that:

- a. Since the Commission is an agency of the United States of America and has made a proper showing under Section 6c(b) of the Act, 7 U.S.C. § 13a-1(b), this restraining order is granted without bond.

(6) INSPECTION AND COPYING OF BOOKS AND RECORDS

IT IS FURTHER ORDERED that:

- a. Representatives of the Commission be immediately allowed to inspect the books, records, and other documents of Defendants and their agents including, but not limited to, paper documents, electronically stored information, tape recordings, and computer discs, wherever they may be situated and whether they are in the possession of Defendants or others, and to copy said documents, data and records, either on or off the premises where they may be situated.

(7) SERVICE OF ORDER

IT IS FURTHER ORDERED that:

- a. Copies of this Order may be served by any means, including facsimile or email transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of Defendants, or that may be subject to any provision of this Order.

- b. Representatives of the Commission, the United States Marshals Service, and the Florida Office of Financial Regulations, are appointed by the Court to effect service of this Order.
- c. The United States Marshals Service and the Florida Office of Financial Regulation, in order to ensure the safety of Commission representatives, are authorized to accompany and assist the Commission in the service on Defendants of the summons, complaint, and supporting motions, memoranda, and orders entered with this Order.
- d. The Commission shall immediately file proof of service with the Court once accomplished.

(8) SERVICE ON THE COMMISSION

IT IS FURTHER ORDERED that:

- a. Defendants shall comply with all electronic filing rules and requirements of the United States District Court of the Middle District of Florida and shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Susan Padove, Sr. Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661, by electronic filing, e-mail, personal delivery or courier service (such as Federal Express or United Parcel Service) and not by regular mail due to potential delay resulting from heightened

security and decontamination procedures applicable to the Commission's regular mail.

(9) PRELIMINARY INJUNCTION HEARING

IT IS FURTHER ORDERED that:

- a. Plaintiff's Motion for a Preliminary Injunction is set for hearing on **April 29, 2015, at 9:30 a.m.**, before the undersigned in the United States Courthouse, 2110 First Street, Fort Myers, Florida 33901, in Courtroom 5D. Counsel for Plaintiff and Defendants shall appear in person and telephonic appearances will not be permitted.
- b. Defendants shall have up to and including **5:00 p.m. on Thursday, April 22, 2015**, to file a memorandum in opposition to Plaintiff's Motion for Injunctive and Other Relief, including any affidavits or declarations on which they rely.

(10) FORCE AND EFFECT

It is FURTHER ORDERED that:

- a. Unless extended or earlier dissolved by Order of this Court, the Statutory Restraining Order shall expire on midnight on April 29, 2015.

DONE and ORDERED in Fort Myers, Florida this 15th day of April, 2015.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

50 Copies to: Counsel for Plaintiff