

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

NAV SARAO FUTURES LIMITED PLC AND
NAVINDER SINGH SARAO,

Defendants.

CIVIL ACTION NO. 15-cv-03398

~~PROPOSED~~ ORDER
GRANTING PLAINTIFF'S *EX PARTE* MOTION FOR STATUTORY RESTRAINING
ORDER AND OTHER RELIEF

This matter is before the on Plaintiff's *Ex Parte* Motion for a Statutory Restraining Order, Preliminary Injunction, and Other Equitable Relief, and Incorporated Memorandum in Support ("Motion") in the above-captioned proceeding. Simultaneously with the Motion, Plaintiff U.S. Commodity Futures Trading Commission ("Commission" or "CFTC") filed a Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief against Defendants Nav Sarao Futures Limited PLC and Navinder Singh Sarao (collectively, "Defendants"). In the Motion, the Commission moves, pursuant to Section 6c(a) of the Commodity Exchange Act ("the Act"), 7 U.S.C. § 13a-1(a) (2012), for an *ex parte* statutory restraining order freezing assets and prohibiting the destruction of books, records, or other documents; an accounting; and for an order requiring Defendants to show cause why a preliminary injunction should not issue.

The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission's Motion, and now, being fully advised, finds as follows:

1. This Court has jurisdiction over the parties and over the subject matter of this action pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2012).

2. Venue properly lies within this District pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2012).

3. There is good cause to believe that Defendants have engaged, are engaging, and/or may continue to engage in acts and practices constituting violations of the Act Sections 4c(a)(5)(C), 6(c)(1) and (3),¹ and 9(a)(2) of the Act, 7 U.S.C. §§ 6c(a)(5)(C), 9(1) & (3), and 13(a)(2) (2012), and Commission Regulations (“Regulations”) 180.1 and 180.2, 17 C.F.R. §§ 180.1 and 180.2 (2014), which, among other things, make it unlawful for any person to manipulate, attempt to manipulate, use a manipulative device, or attempt to use a manipulative device, or spoof the market of any commodity in interstate commerce or for future delivery on or subject to the rules of any registered entity, including any contract market.

4. The Commission has presented evidence that, from at least April 2010 to January 2012; July 2012 to June 2014; and September 2014 to present (“Relevant Period”), Defendants have manipulated, attempted to manipulate and/or spoofed the near month of the Chicago Mercantile Exchange E-mini S&P futures contract (“E-mini S&P”). Similarly, the CFTC has presented evidence that Defendants have profited over \$40 million from E-mini S&P trading during the Relevant Period.

5. Prior notice to Defendants of an asset freeze is likely to result in dissipation of Defendants’ assets making it difficult for this Court ultimately to grant effective relief. Similarly, given the ease of destroying books, records, and other documents, an order prohibiting the destruction of relevant documents and granting the Commission immediate access to inspect

¹ Section 6(c)(1) and (3) of the Act became effective on August 15, 2011. Prior to that date, Defendants’ conduct is alleged to have violated Section 6(c) of the Act, 7 U.S.C. §§ 9, 15 (2008).

and copy those documents will increase the likelihood of a meaningful opportunity for the Commission, and ultimately this Court, to determine the full scope of Defendants' allegedly unlawful scheme.

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

7. There is good cause for entry of an order freezing assets owned, controlled, managed, or held by, on behalf of, or for the benefit of Defendants.

8. 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, from destroying relevant books, records, and other documents and/or denying agents of the Commission immediate and complete access to Defendants' books and records for inspection and copying.

DEFINITIONS

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

a. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Fed. R. Civ. P. 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 a reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

b. The term “asset” means any legal or equitable interest in, right to, or claim to any real or personal property, whether individually or jointly or directly or indirectly controlled, and wherever located (including within or outside the United States), 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 futures or option contracts), insurance policies, and all cash, wherever located, regardless of when the asset is or was obtained.

c. “Defendants” shall mean and refer to not only Nav Sarao Futures Limited PLC and Navider Singh Sarao, but also to their agents, servants, employees, assigns, attorneys, and persons in active concert or participation with any of the Defendants, including any successor thereof, and any d/b/a, successor, affiliate, subsidiary, or other entity owned, controlled, managed, or held by, on behalf of, or for the benefit of any of the Defendants. For purposes of this Order, “Defendants” shall include International Guarantee Corporation, an Anguillan, British West Indies corporation.

RELIEF GRANTED

I. ASSETS

A. Order Against Transfer, Dissipation, and Disposal of Assets

IT IS HEREBY ORDERED that:

10. Defendants and any other persons who receive actual notice of this Order, by personal service or otherwise, are 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’ assets,

wherever located, including assets held outside the United States, unless otherwise ordered by the Court.

B. Directives to Financial Institutions and Others

IT IS FURTHER ORDERED that:

11. 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 account or other of Defendants' assets at any time since April 17, 2010, shall:

a. Immediately upon receipt of a copy of this Order prohibit Defendants and all other persons from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of any of Defendants' assets, except as directed by further order of the Court;

b. Immediately upon receipt of a copy of this Order deny 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 Defendants, either individually or jointly, whether in the name, alias, or fictitious "doing business as" name of; or (b) otherwise subject to access by Defendants, except as directed by further order of the Court;

c. Within five (5) business days of receiving a copy of this Order provide counsel for the Commission 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 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 Defendants, either individually or jointly, or is otherwise subject to access by Defendants; and

d. Upon request by the Commission, within ten (10) business days or such longer period as specified by the Commission, provide the Commission with copies of all records or other documentation pertaining to any 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, Forms 1099, and safe deposit box logs.

C. Injunction Against Interference with Assets

IT IS FURTHER ORDERED that:

12. Absent express permission and leave by this Court, all persons, including but not limited to Defendants and all trust beneficiaries, note holders, creditors, claimants, lessors, and all other persons or entities seeking relief of any kind from Defendants' assets (other than the present action by the Commission and/or any civil or criminal action brought by another federal or state agency), in law or in equity, and all persons acting on behalf of any such trust beneficiary, note holder, creditor, claimant, lessor, consultant group, or other person, including sheriffs, marshals, and all officers and deputies, and their respective attorneys, servants, agents and employees, are, until further order of this Court, hereby restrained and enjoined from doing anything, directly or indirectly, to interfere with Defendants' assets. Accordingly, all such persons are enjoined from engaging in any self-help, including set-offs, and from filing or prosecuting any actions or proceedings which affect Defendants' assets, specifically including

any proceeding initiated pursuant to the U. S. Bankruptcy Code, except with prior permission of this Court. Moreover, any such actions that are so authorized shall be filed in this Court.

II. BOOKS, RECORDS, AND OTHER DOCUMENTS

A. Maintenance of Business Records

IT IS FURTHER ORDERED that:

13. Defendants and any other persons who receive actual notice of this Order, by personal service or otherwise, are restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in any manner, directly or indirectly, any books, records, or other documents, wherever such materials may be situated, that refer or relate in any manner to the allegations in the Complaint or to Defendants' assets.

B. Inspection and Copying of Books and Records

IT IS FURTHER ORDERED that:

14. Representatives of the Commission (accompanied by representatives of other international, federal, or state authorities or the National Futures Association, if the Commission so desires) shall be allowed immediate and continued access, until further Order of this Court, to inspect the books, records, and other documents of Defendants and their agents, including but not limited to electronically stored information, tape recordings, and computer discs, that refer or relate in any manner to the allegations in the Complaint or to Defendants' assets, wherever they may be situated and whether such materials are in the possession of Defendants, or others, and to copy said books, records, and other documents, either on or off the premises where they may be situated;

15. Within five (5) business days following the service of this Order, Defendants shall provide the Commission immediate access to all records of 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 and submitting same to the Commission.

III. REQUIRED ACCOUNTING

IT IS FURTHER ORDERED that:

16. Defendants shall prepare, sign and submit to the Commission, by April 27, 2015, a complete and accurate accounting of Defendants' assets as of the date of this Order. Such accounting shall include, without limitation, the identification of:

- a. All banks, futures commissions merchants, financial or brokerage institutions, including account numbers, which hold funds, securities, commodity interests, assets, liabilities, and other property owned or controlled (legally, equitably, or otherwise) directly or indirectly by Defendants, whether individually or jointly;
- b. All funds, securities, commodity interests, assets, liabilities, and other property owned or controlled (legally, equitably, or otherwise) directly or indirectly by Defendants, whether individually or jointly; and
- c. The names and last known addresses of each bailee, debtor, or other person or entity currently holding any funds, securities, commodity interests, assets or other property owned or controlled (legally, equitably or otherwise) by Defendants, whether individually or jointly.

IV. BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED that:

17. As an agency of the United States of America and pursuant to 7 U.S.C. § 13a-1(b) (2012), Plaintiff Commission need not post a bond.

V. ORDER TO SHOW CAUSE

IT IS FURTHER ORDERED that:

18. Defendants shall appear before this Court on the 1st day of May, 2015, at 10:30 a.m., before the Honorable Andrea R. Wood at the U.

S. Courthouse for the Northern District of Illinois, 219 South Dearborn Street, Chicago, IL 60604, to show cause, if there be any, why an Order for Preliminary Injunction should not be granted to prohibit further violations of the Act and Regulations and why the other relief requested should not be granted pending trial on the merits of this action.

19. Should any party wish to file a memorandum of law or other papers in opposition to Plaintiff's Motion for a Preliminary Injunction, all papers shall be filed on or before April 24, 2015 with concurrent electronic service on the Commission's counsel of record and served on the Commission's Kansas City, Missouri office to the attention of the Commission's counsel in this case no later than 24 hours after filing with the Court. Any reply papers shall be filed with the Court and delivered to opposing counsel no later than 5:00 o'clock p.m. on April 29, 2015. Service of all papers shall be by electronic mail, facsimile, overnight delivery, or personal service.

VI. SERVICE

IT IS FURTHER ORDERED that:

20. Copies of this Order may be served by any means, including facsimile and e-mail transmission, upon any entity or person that may have possession, custody, or control of any of Defendants' documents or any of Defendants' assets that may be subject to any provision of this Order, and, additionally, that Charles Marvine, Jeff Le Riche, Jennifer Chapin, Jo Mettenburg, Allison Sizemore, Jessica Harris, and Jeremy Christianson, or other representatives of the Commission, representative(s) of the U.S. Marshals Service, and representatives of international state or local law enforcement agencies in the jurisdictions within which Defendants reside or may be located are specially appointed by the Court to effect service. ~~Further, service of the~~
Summons, Complaint, or other process may be effected by any Commission representative, any U.S. Marshal or deputy U.S. Marshal, or in accordance with Fed. R. Civ. P. 4, and service on


corporate entities may be effected by serving the Summons, Complaint, or other process via overnight delivery to the registered agent of said corporate entities.

VII. FORCE AND EFFECT

IT IS FURTHER ORDERED that:

21. 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 Chicago, Illinois, on the 17th day of April, 2015, at 5:00 p.m.


UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF ILLINOIS

CONSENT TO RELEASE OF FINANCIAL RECORDS

I, Navinder Singh Sarao, 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 or investigator of the United States Commodity Futures Trading Commission and to give evidence relevant thereto, in the matter of United States Commodity Futures Trading Commission v. Nav Sarao Futures Limited, PLC, et al., Case No. _____, now pending before the United States District Court for the Northern District of Illinois and this shall be irrevocable authority for so doing. This direction is intended to apply to not only the laws of the United States, but also 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: _____

Printed Name

Signature