

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No.: 12-CV-81311-Middlebrooks/Brannon

UNITED STATES COMMODITY FUTURES:
TRADING COMMISSION, :

Plaintiff, :

v. :

HUNTER WISE COMMODITIES, LLC, :
HUNTER WISE SERVICES, LLC, HUNTER :
WISE CREDIT, LLC, HUNTER WISE :
TRADING, LLC, LLOYDS COMMODITIES, :
LLC, LLOYDS COMMODITIES CREDIT :
COMPANY, LLC, LLOYDS SERVICES, :
LLC, C.D. HOPKINS FINANCIAL, LLC, :
HARD ASSET LENDING GROUP, LLC, :
BLACKSTONE METALS GROUP, LLC, :
NEWBRIDGE ALLIANCE, INC., UNITED :
STATES CAPITAL TRUST, LLC, HAROLD :
EDWARD MARTIN, JR., FRED JAGER, :
JAMES BURBAGE, FRANK GAUDINO, :
BARIS KESER, CHADEWICK HOPKINS, :
JOHN KING, and DAVID A. MOORE, :

Defendants. :

**PRELIMINARY INJUNCTION AND OTHER ANCILLARY RELIEF
AGAINST DEFENDANTS HUNTER WISE COMMODITIES, LLC, HUNTER WISE
SERVICES, LLC, HUNTER WISE CREDIT, LLC, HUNTER WISE TRADING, LLC,
LLOYDS COMMODITIES, LLC, LLOYDS COMMODITIES CREDIT COMPANY,
LLC, LLOYDS SERVICES, LLC, C.D. HOPKINS FINANCIAL, LLC, HARD ASSET
LENDING GROUP, LLC, BLACKSTONE METALS GROUP, LLC, NEWBRIDGE
ALLIANCE, INC., UNITED STATES CAPITAL TRUST, LLC, HAROLD EDWARD
MARTIN, JR., FRED JAGER, JAMES BURBAGE, FRANK GAUDINO, BARIS KESER,
CHADEWICK HOPKINS, JOHN KING, and DAVID A. MOORE,**

On December 5, 2012, Plaintiff Commodity Futures Trading Commission (“CFTC” or
“Commission”) filed a Complaint against Hunter Wise Commodities, LLC, Hunter Wise
Services, LLC, Hunter Wise Credit, LLC Hunter Wise Trading, LLC, Lloyds Commodities,

LLC, Lloyds Commodities Credit Company, LLC, Lloyds Services, LLC, C.D. Hopkins Financial, LLC, Hard Asset Lending Group, LLC, Blackstone Metals Group, LLC, Newbridge Alliance, Inc., United States Capital Trust, LLC, Harold Edward Martin, Jr., Fred Jager, James Burbage, Frank Gaudino, Baris Keser, Chadewick Hopkins, John King, and David A. Moore (collectively “Defendants”) seeking injunctive and other equitable relief for violations of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 1 *et seq.* (2006), 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), and by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), Public Law 111-203, 124 Stat. 1376 (2010), to be codified at 7 U.S.C. §§ 6(a), 6b, 9, and 15, and the Commission Regulations promulgated thereunder, 17 C.F.R. §§ 1.1 *et seq.* (2012). This matter comes before the Court on the Plaintiff’s Motion for Preliminary Injunction.

Based on the evidence submitted by Plaintiff CFTC, and the legal arguments in support, the Court makes the following findings, and enters the following orders:

1. Section 6c(a) of the Act authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of the Act or any rule, regulation, or order thereunder.

2. The Commission has jurisdiction over the conduct and transactions at issue in this case pursuant to Section 2(c)(2)(D) of the Act, as amended by the Dodd-Frank Act, 7 U.S.C. § 2(c)(2)(D).

3. Venue properly lies with the Court pursuant to Section 6c(e) of the Act, because Defendants transact business in this District and certain transactions, acts, practices, and business alleged in this Complaint occurred, are occurring, and/or are about to occur within this District.

4. Defendants have been properly served in this matter and have had adequate notice and an opportunity to be heard in this matter.

5. There is good cause to believe that Defendants have engaged, are engaging and are about to engage in acts and practices constituting violations of the Act. There is good cause to believe that retail customers and prospective retail customers are being offered illegal, off-exchange transactions, and may be cheated and defrauded in connection therewith, and that immediate and irreparable damage to the Court's ability to grant effective final relief in the form of monetary redress will occur from the dissipation of customer assets and destruction of records unless the Defendants are immediately restrained and enjoined by order of this Court and, accordingly there is good cause to issue this order.

6. It further appears to the satisfaction of the Court that this is a proper case for granting a preliminary injunction to preserve the status quo during the pendency of this case, and to protect the public, including retail customers and prospective retail customers from further deceit, loss or damage.

I. DEFINITIONS

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

7. "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, credits, receivables, lines of credit, contracts, insurance policies, and all cash, wherever located.

8. “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, 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.

II. INJUNCTIVE RELIEF GRANTED

IT IS THEREFORE ORDERED THAT:

10. The Defendants are restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly:

- A. Engaging in conduct in violation of Section 4(a) by offering to enter into, entering into, executing, confirming the execution of, or conducting any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with a contract for the purchase or sale of a commodity for future delivery, including any agreement, contract, or transaction in any commodity that is entered into with, or offered to (even if not entered into with), a person that is not an eligible contract participant or eligible commercial entity and where such agreement, contract or transaction is entered into, or offered (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.

11. Defendants Hunter Wise Commodities, LLC, Hunter Wise Services, LLC, Hunter Wise Credit, LLC, Hunter Wise Trading, LLC, C.D. Hopkins Financial, LLC, Hard Asset Lending Group, LLC, Blackstone Metals Group, LLC, Newbridge Alliance, Inc., United States Capital Trust, LLC, Harold Edward Martin, Jr., Fred Jager, Baris Keser, Chadewick Hopkins,

John King, and David A. Moore are restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly:

- A. Cheating and defrauding or attempting to cheat or defraud any person, or to willfully deceive any person in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made or to be made on or subject to the rules of a designated contract market, for or on behalf of any other person, including any agreement, contract, or transaction in any commodity that is entered into with, or offered to (even if not entered into with), a person that is not an eligible contract participant or eligible commercial entity and where such agreement, contract or transaction is entered into, or offered (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis in violation of Section 4b(a)(1)(A) and (C) of the Act, as amended by the CRA, to be codified at 7 U.S.C. § 6b(a)(1)(A) and (C);
- B. Directly or indirectly, in connection with any contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, to intentionally or recklessly: (1) use, employ, or attempt to use or employ any manipulative device, scheme or artifice to defraud; (2) make or attempt to make any untrue or misleading statement of a material fact, or to omit to state a material fact necessary in order to make the statements not true or misleading; or, (3) engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person, in violation of Section 6c of the Act, 7 U.S.C. §§ 9 and 15 and Regulation 180.1, 17 C.F.R. § 180.1;

11. Defendants are further restrained, enjoined and prohibited, until further order of the Court, from directly or indirectly:

- A. Engaging in, controlling or directing the trading for any commodity futures or options accounts for or on behalf of any other person or entity, whether by power of attorney or otherwise;
- B. Entering into any commodity futures or options transactions for their own accounts, for any accounts in which they have a direct or indirect interest, and/or having any commodity futures or options traded on their behalf; and
- C. Applying for registration or claiming exemption from registration with the Commission in any capacity, and engaging in any activity requiring such registration or exemption from registration, except as provided for in Section 4.14(a)(9) of the Commission's Regulations, 17 C.F.R. § 4.14(a)(9), or acting, directly or indirectly, as a principal, agent, or any other officer, agent or employee

of any person registered, required to be registered, or exempted from registration with the Commission, unless such exemption is pursuant to Section 4.14(a)(9) of the Commission's Regulations, 17 C.F.R. §4.14(a)(9).

IT IS FURTHER ORDERED THAT:

12. Defendants are further restrained, enjoined and prohibited, until further order of this Court, from directly or indirectly dissipating, withdrawing, transferring, removing, dissipating, disposing or concealing of any cash, cashier's checks, funds, assets or other property of, or within the custody, control or actual or constructive possession of Defendants including, but not limited to, all funds, personal property, money or securities held in Defendants' name, jointly or individually, whether held or maintained in safety deposit boxes, and including all funds on deposit in any financial or brokerage institution, futures commission merchant, bank or savings and loan account held by, under the actual or constructive control, or in the name of Defendants, jointly or individually, funds or property of Defendants' investors, wherever located, whether held in the name of the Defendants, jointly or individually, or any other entity owned or controlled by Defendants, jointly or individually.

13. Defendants shall provide the Commission access to all records of Defendants held by financial institutions located within or outside the territorial United States.

14. Until further order of this Court, any firm, bank, financial or brokerage institution, futures commission merchant, corporation, partnership, association or other person or entity which holds, controls, or maintains custody of any funds, securities, assets or other property of any kind and who receives notice of this Order by personal service or otherwise, including Federal Express or other commercial overnight service, email or facsimile shall:

- A. Prohibit Defendants and any person other than the Receiver from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling or otherwise disposing of any such asset except as directed by further order of the Court;

- B. Deny Defendants and any person other than the Receiver access to any safe deposit box that is titled in the name of Defendants, either individually or jointly; or otherwise subject to access by the Defendants; and,
- C. Cooperate with all reasonable requests of the CFTC or the Receiver relating to implementation of this Order, including producing records related to Defendants' accounts and Defendants' businesses.

15. The injunctive provisions of this Order shall be binding on Defendants, upon any person insofar as he or she is acting in the capacity of officer, agent, servant, employee or attorney of Defendants, and upon any person who receives actual notice of this Order by personal service or otherwise, including Federal Express or other commercial overnight service, email or facsimile, insofar as he or she is acting in active concert or participation with Defendants.

IT IS FURTHER ORDERED THAT:

16. Defendants and their agents, servants, employees, successors, assigns, attorneys and all persons insofar as they are acting in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, including Federal Express or other commercial overnight service, email or facsimile, are restrained and enjoined from directly or indirectly destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of Defendants wherever located, including all such records concerning the Defendants' business operations.

IT IS FURTHER ORDERED THAT:

17. Defendants must permit representatives of the Plaintiff CFTC to immediately inspect the books, records and other electronically stored data, tape recordings, and other

documents of the Defendants wherever they are 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.

18. Defendants are restrained and enjoined from directly or indirectly refusing to make available for inspection by the CFTC, when as requested, any books, records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of Defendants wherever located, including, but not limited to, all such records of Defendants' business operations.

IT IS FURTHER ORDERED THAT:

19. Defendants shall prepare, sign and file with the Court, by [DATE] a complete and accurate accounting for the period of July 1, 2010 to the date of such accounting, which shall be no earlier than the date of this Order. Such accounting shall include, without limitation, the identification of:

- A. All banks, futures commission merchants ("FCMs"), financial or brokerage institutions, including account numbers, which hold or have held funds, securities, commodity interests, assets, liabilities, and other property currently 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 currently owned or controlled (legally, equitably or otherwise) directly or indirectly by Defendants, whether individually or jointly;
- C. All funds, securities, commodity interests, assets and other property received directly or indirectly by Defendants, describing the source, amount, disposition, and current location of each listed item;
- D. All funds, securities, commodity interests, assets and other property transferred or otherwise disposed of directly or indirectly by the Defendants, describing the source, amount, disposition, and current location of each listed item, including accounts or assets of Defendants held by any bank, FCM, financial or brokerage institutions located inside and/or outside the territorial United States;

- E. All investors of Defendants, including name, address, telephone number and email, account number, deposit and withdrawal dates and amounts; and
- F. 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.

At a minimum, the accounting should also include a chronological schedule of all cash receipts and cash disbursements. In addition, each transaction shall be classified as business or personal. All business transactions shall disclose the business purpose of the transaction. The accounting shall be provided in an electronic format such as Quicken, Excel, or other accounting or electronic format spreadsheet. In addition, the Defendants shall supply true and accurate copies of any balance sheets, income statements, statements of cash flow, or statements of ownership equity previously prepared for the Defendants' business(es).

20. Defendants are further ordered to immediately identify and provide an accounting for all assets and property that are currently maintained outside the United States, including but not limited to all funds on deposit in any bank, futures commission merchant, financial or brokerage institution, including but not limited to funds, securities and assets held by, under the control of, or in the name of the Defendants, whether jointly, individually or otherwise.

21. It is further ordered that Defendants shall immediately take all steps within their power to repatriate all funds, securities, assets and other property held by, under the control of, or in the name of the Defendants, whether individually or jointly, outside the United States, including but not limited to all funds on deposit in any firms, banks, financial or brokerage institutions, futures commissions merchants, or other financial institutions, by transferring them as directed by the Receiver, for further disposition in this case.

III. BOND NOT REQUIRED OF PLAINTIFF

IT IS FURTHER ORDERED THAT:

22. Pursuant to Section 6(c) of the Act, 7 U.S.C. § 13a-1, no bond need be posted by the Plaintiff, CFTC, which is an agency of the United States of America.

IV. DIRECTIVES TO FINANCIAL INSTITUTIONS

23. **IT IS FURTHER ORDERED**, pending further Order of this Court, that any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants, or has held, controlled, or maintained custody of any account or asset owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants at any time since, shall:

- A. Provide counsel for the CFTC, within five (5) business days of receiving a copy of this Order, a statement setting forth: (a) the identification number of each and every such account or asset titled in the name, individually or jointly, of the Defendants, or owned, controlled, managed, or held by, on behalf of, or for the benefit of the Defendants; (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 either titled in the name, individually or jointly, of the Defendants or is otherwise subject to access by the Defendants; and
- B. Upon request by the CFTC, promptly provide the CFTC 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 instructions or slips, currency transactions reports, 1099 forms, and safe deposit box logs.

V. SERVICE OF THE ORDER

24. **IT IS FURTHER ORDERED** that copies of this Order may be served by any

means, including by way of personal service, Federal Express or other commercial overnight service, email or facsimile, 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: Carlin Metzger, Heather Johnson, Theodore Glotfelty, Brigitte Weyls, Peter Riggs, Nancy Hooper, Steven Turley, and Joseph Konizeski, all representatives of the Plaintiff, are hereby specially appointed to serve process, and/or effectuate service of process, including this Order and all other papers in this cause.

VI. SERVICE ON THE COMMISSION

25. **IT IS FURTHER ORDERED** that the Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Plaintiff Commission by delivering a copy to Carlin Metzger, Senior Trial Attorney, Joseph Konizeski, Chief Trial Attorney, or Rosemary Hollinger, Associate Director, Division of Enforcement, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661.

VII. APPOINTMENT AND AUTHORITY OF THE RECEIVER

26. _____ is appointed Receiver for the Defendants' assets and the assets of any affiliates or subsidiaries of any Defendant with the full powers of an equity receiver. The Receiver shall be the agent of this Court in acting as Receiver under this Order.

A. Powers of the Receiver

27. **IT IS FURTHER ORDERED** that the Receiver is directed and authorized to accomplish the following:

- A. Take exclusive custody, control and possession of all funds, property, and other assets in the possession of, or under the control of Defendants, wherever situated that the Receiver has a reasonable basis to believe is related to this action. The Receiver shall have full power to sue for, collect, receive and take possession of all goods, chattels, rights, credits, moneys, effects, land, leases, books, records, work papers, and records of accounts, including computer-maintained information and digital data and other papers and documents.

- B. The Receiver is authorized to enter and inspect the business premises of Defendants and to take documents or other property related to Defendants;
- C. Preserve, hold and manage all receivership assets, and perform all acts necessary to preserve the value of those assets, in order to prevent any loss, damage or injury to retail customers;
- D. Prevent the withdrawal or misapplication of funds entrusted to Raleigh Fund, and otherwise protect the interests of the retail customers;
- E. Collect all money owed to Defendants;
- F. Initiate, defend, compromise, adjust, intervene in dispose of, or become a party to any actions or proceedings in state, federal or foreign jurisdictions necessary to preserve or increase the assets of Defendants necessary to carry out the duties pursuant to this Order;
- G. Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities upon obtaining leave of this Court and thereafter, only upon further order of this Court;
- H. Issue subpoenas to obtain documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the receivership estate;
- I. Open one or more bank or securities accounts as designated depositories for funds of Defendants. The Receiver shall deposit all funds of Defendant in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts. The Receiver is authorized to invest receivership funds in U.S. Treasury securities, money market funds or other interest-bearing accounts as appropriate in the Receiver's judgment;
- J. Make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by Defendants prior to the date of entry of this Order, except for payments that the Receiver deems necessary or advisable to secure assets; and
- K. Close out all commodity futures positions or other outstanding positions and/or hold such assets without further court order.

B. Delivery to Receiver

28. **IT IS FURTHER ORDERED** that, immediately upon service of this Order upon them, Defendants and any other person or entity served with a copy of this order shall,

immediately or within such time as permitted by the Receiver in writing, deliver over to the Receiver:

- A. Possession and custody of all funds and all other assets, belonging to Defendants;
- B. Possession and custody of documents of Defendants, including, but not limited to, all books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents and other papers;
- C. All keys, computer passwords, entry codes, PIN numbers and combinations to locks necessary to gain or to secure access to any of the assets or documents of Defendants, including but not limited to, access to business premises, means of communication, accounts, computer systems, or other property; and
- D. Information identifying the accounts, employees, properties or other assets or obligations of Defendants.

C. Cooperation with Receiver

29. **IT IS FURTHER ORDERED** that Defendants, their agents and representatives, and all other persons or entities served with a copy of this Order shall cooperate fully with and assist the Receiver in the performance of the Receiver's duties. This cooperation and assistance shall include, but not be limited to, providing any information to the Receiver that the Receiver deems necessary to exercising the authority and discharging the responsibilities of the Receiver under this Order; and advising all persons who owe money to Defendants that all debts should be paid directly to the Receiver. However, this requirement does not impinge on any person's right to assert applicable privileges.

D. Stay

30. **IT IS FURTHER ORDERED** that except by leave of the Court, during the pendency of the receivership ordered herein, Defendants and all other persons and entities be and hereby are stayed from taking any action to establish or enforce any claim, right or interest for, against, on behalf of, or in the name of Defendants, the Receiver, receivership assets, or the

Receiver's duly authorized agents acting in their capacities as such, including but not limited to, the following actions:

- A. Commencing, prosecuting, litigating or enforcing any civil suit, except that actions may be filed to toll any applicable statute of limitations;
- B. Accelerating the due date of any obligation or claimed obligation, enforcing any lien upon, or taking or attempting to take possession of, or retaining possession of, property of Defendant or any property claimed by Defendant, or attempting to foreclose, forfeit, alter or terminate any of Defendants' interests in property, whether such acts are part of a judicial proceeding or otherwise;
- C. Using self-help or executing or issuing, or causing the execution or issuance of any court attachment, subpoena, replevin, execution, right of offset, or other process for the purpose of impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wherever located, owned by or in the possession of Defendant, or the Receiver or any agent of the Receiver; and
- D. Doing any act or thing to interfere with the Receiver taking control, possession or management of the property subject to the receivership, or to in any way interfere with the Receiver or the duties of the Receiver, or to interfere with the exclusive jurisdiction of this Court over the property and assets of Defendants. This paragraph does not stay the commencement or continuation of an action or proceeding by a governmental or regulatory unit, such as the National Futures Association ("NFA"), to enforce such governmental or regulatory unit's police or regulatory power.

E. Receiver's Report to the Court and Compensation

31. **IT IS FURTHER ORDERED** that the Receiver maintain written accounts, itemizing receipts and expenditures, describing properties held or managed, and naming the depositories of receivership funds; make such written accounts and supporting documentation available to the Commission for inspection, and, within ninety (90) days of being appointed and periodically thereafter, as directed by the Court, file with the Court and serve on the parties a report summarizing efforts to marshal and collect assets, administer the receivership estate, and otherwise perform the duties mandated by this Order.

32. **IT IS FURTHER ORDERED** that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver, are entitled to reasonable

compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them for those services authorized by this Order that when rendered were (1) reasonably likely to benefit the receivership estate or (2) necessary to the administration of the estate. The Receiver and all personnel hired by the Receiver shall be compensated solely out of funds now held by or in the possession or control of or which may in the future be received by Defendants, or from proceeds of the sale of Defendants' assets, and shall not be entitled to any compensation from the Commission. The compensation of the Receiver and all personnel hired by the Receiver shall be entitled to priority as administrative expenses. The Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than ninety (90) days after the date of this Order and subsequent requests filed quarterly thereafter. The requests for compensation shall itemize the time and nature of services rendered by the Receiver and all personnel hired by the Receiver. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

F. Limitation of Receiver's Liability

33. **IT IS FURTHER ORDERED** that the Receiver and all persons hired by Receiver are entitled to rely on all outstanding rules of law and Court orders and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment or decree. In no event shall the Receiver or persons hired by Receiver be liable to anyone (1) with respect to the performance of their duties and responsibilities as Receiver or persons hired by Receiver, or (2) for any actions taken or omitted by them, except upon a finding by this Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties. Nothing in this provision is intended to provide a defense

against liability for any actions taken by the Defendants or their personnel prior to the appointment of Receiver.

G. No Bond

34. **IT IS FURTHER ORDERED** that the Receiver is appointed without bond.

VIII. COURT MAINTAINS JURISDICTION

35. **IT IS FURTHER ORDERED** that this Preliminary Injunction shall remain in full force and effect during the pendency of this case, or 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 related to this action.

IT IS SO ORDERED.

Signed at _____ o'clock am/pm on the ____ day of _____, 2012

UNITED STATES DISTRICT JUDGE