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18 by and through the California Corporations Commissioner

19 UNITED STATES DISTRICT COURT
20 SOUTHERN DISTRICT OF CALIFORNIA

21 U.S. COMMODITY FUTURES TRADING)
22 COMMISSION and THE PEOPLE OF THE)
23 STATE OF CALIFORNIA, by and through the)
24 CALIFORNIA CORPORATIONS)
25 COMMISSIONER,)

26 Plaintiffs,)

27 vs.)

28 MOHIT A. KHANNA, an individual, and MAK)
29 1 ENTERPRISES GROUP, LLC, a Nevada)
30 limited liability company,)

31 Defendants; and)

32 FIRST OPPORTUNITIES MANAGEMENT)
33 GROUP, INC., a Nevada corporation,)

34 Relief Defendant.)

Case No.

PLAINTIFF'S EX PARTE APPLICATION
FOR STATUTORY RESTRAINING
ORDER, ORDER FOR AN
ACCOUNTING, ORDER GRANTING
EXPEDITED DISCOVERY, ORDER TO
SHOW CAUSE REGARDING
PRELIMINARY INJUNCTION, AND
OTHER EQUITABLE RELIEF

35 Plaintiff's *Ex Parte* Application for Statutory Restraining Order, Order for An Accounting, Order
36 Granting Expedited Discovery, Order to Show Cause Regarding Preliminary Injunction, and
37 other Equitable Relief Case No. _____

1 Pursuant to Section 6c of the Commodity Exchange Act, 7 U.S.C. §§ 13a-1 (2006) (the
2 “Act”), and Section 2(c)(2)(C)(i)-(iii) of the Act as amended by the Food, Conservation, and
3 Energy Act of 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act (“CRA”)),
4 §§ 13101-13204, 122 Stat. 1651 (to be codified at 7 U.S.C. §§ 1 *et seq.* (enacted June 18, 2008)),
5 Plaintiff, the U.S. Commodity Futures Trading Commission (“Commission” or “CFTC”), applies
6 to this Court for an *ex parte* Statutory Restraining Order, without bond, an order requiring an
7 accounting, an order granting expedited discovery, an order assigning a temporary receiver, an
8 order to show cause regarding preliminary injunction, and other equitable relief against
9 Defendants MAK 1 ENTERPRISES GROUP, LLC (“MAK 1”), MOHIT A. KHANNA
10 (“Khanna”) (hereinafter collectively referred to as “Defendants”), and FIRST OPPORTUNITIES
11 MANAGEMENT GROUP, LLC, (“Relief Defendant”).
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14 By its Application, the Commission seeks an Order which:

15 1. Freezes assets held in the name of, or under the control or management of
16 Defendants or Relief Defendant (“Assets”) and restrains and enjoins Defendants, Relief
17 Defendant, their employees or agents from directly or indirectly dissipating, withdrawing,
18 transferring, removing, concealing or disposing of funds, securities, assets or other property
19 owned, controlled or held (whether legally, equitably or otherwise) by Defendants or Relief
20 Defendant, wherever such funds, assets or other property are located, including those held
21 outside the United States, or from directly or indirectly opening or causing to be opened any safe
22 deposit boxes titled in the name of or subject to access by Defendants or Relief Defendant;
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25 2. Requires any financial or brokerage institution, business entity, or person that
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1 holds, controls or maintains custody of any account or asset of, or has held, controlled, or
2 maintained custody of any account of each and every Defendant or Relief Defendant at any time
3 since January 1, 2000, to: (i) prohibit any person (except the Commission or a Court appointed
4 receiver) from withdrawing or encumbering Defendants' or Relief Defendant's assets; (ii) deny
5 any person (except the Commission or a Court appointed receiver) access to each and every safe
6 deposit box of Defendants or Relief Defendant; (iii) provide the Commission with a statement
7 describing the assets, accounts, and safe deposit boxes held by or on behalf of each and every
8 Defendant or Relief Defendant; and (iv) allow representatives of the Commission access to
9 inspect and copy records pertaining to Defendants' or Relief Defendant's financial accounts and
10 other assets;
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13 3. Requires Defendants and Relief Defendant to: (a) provide the Commission with a
14 full detailed accounting of all domestically held funds, documents and assets; (b) provide the
15 Commission with a full accounting of all foreign held funds, documents and assets; (c) transfer
16 foreign held assets and documents to the United States and to the possession of the Commission;
17 and (d) sign consents to the release of financial records that waive foreign bank secrecy laws or
18 otherwise permit the Commission access to all records of Defendants and Relief Defendant held
19 by financial institutions located within or outside the territorial United States;
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22 4. Restrains and enjoins Defendants, Relief Defendant, their agents, servants,
23 employees, assigns, attorneys, and persons in active concert or
24 participation with the Defendants or Relief Defendant, including any
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1 successor thereof, from directly or indirectly destroying, mutilating, concealing, altering, or
2 disposing of any of the books, records, documents, correspondence, brochures, manuals,
3 electronically stored data, tape recordings, or other property of Defendants and Relief Defendant,
4 wherever such materials may be situated, that refer or relate in any manner to any transaction or
5 matter described in the Complaint in this case;
6

7 5. Authorizes representatives of the Commission to be allowed immediate access to
8 inspect and copy, either on or off the premises, wherever they may be situated, the books,
9 records, and other documents of Defendants, Relief Defendant, and their agents, servants,
10 employees, assigns, attorneys, and persons in active concert or participation with the Defendants
11 or Relief Defendant, including any successor thereof;
12

13 6. Requires Defendants, Relief Defendant, their agents, servants,
14 employees, assigns, attorneys, and persons in active concert or
15 participation with the Defendants or Relief Defendant, including any
16 successor thereof, to cooperate fully with the Commission to locate and provide to
17 representatives of the Commission all assets, books, and records of Defendants, and those of
18 Relief Defendant, wherever such assets, books, and records may be situated;
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20 7. Authorizes the Commission to conduct expedited discovery in advance of
21 discovery allowed by the Federal Rules of Civil Procedure (“FRCP”) Rule 26. This includes
22 allowing the Commission leave to take depositions of Defendants, Relief Defendant, and non-
23 parties subject to two calendar days notice pursuant to FRCP 30(a) and 45, so that the
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1 Commission can determine the full extent of Defendants' wrongdoing (including, but not limited
2 to, the possible involvement of others), locate other customers who were defrauded by
3 Defendants, identify customers' funds, identify the Defendants' and Relief Defendant's assets;
4 and
5

6 8. Authorizes service of the Statutory Restraining Order and Complaint by any
7 means, including facsimile and e-mail transmission, upon any entity or person that may have
8 possession, custody, or control of any documents or assets of Defendants or Relief Defendant or
9 that may be subject to any provision of the Statutory Restraining Order.
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11 In addition, the Commission requests that the Court issue an order to show cause why a
12 preliminary injunction should not be granted to prohibit further violations of the Act, the Act as
13 amended by the CRA, and Commission Regulations and for such other relief as the Court deems
14 necessary and appropriate under the circumstances.
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16 In support of this Application, Commission respectfully refers the Court to the Plaintiff's
17 Memorandum of Points and Authorities and exhibits filed therewith. As explained in Plaintiff's
18 Memorandum of Points and Authorities, Defendants fraudulently solicited or defrauded the retail
19 public in connection with offering of retail client managed accounts and/or a pooled investment
20 vehicle to trade leveraged or managed foreign currency and speculate on the movement of
21 foreign currency prices in the foreign currency market, misappropriated customer funds to pay
22 off other customers and for personal and business uses, and issued false statements. Defendants
23 fraudulently solicited by, among other things, knowingly (i) making false statements; (ii)
24 providing fraudulent account statements that misrepresented the value of customers' accounts;
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27 Plaintiff's *Ex Parte* Application for Statutory Restraining Order, Order for An Accounting, Order
28 Granting Expedited Discovery, Order to Show Cause Regarding Preliminary Injunction, and
other Equitable Relief

1 (iii) misappropriating customer funds for their own personal use, to maintain the appearance of a
2 legitimate investment in the manner of a “ponzi” scheme, all in violation of provisions of the
3 Act, the Act as amended by the CRA, and the Commission Regulations.
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5 Unless the Court grants the relief for a statutory *ex parte* restraining order, it will be
6 unable to preserve funds for victims of Defendants’ unlawful activities and to prevent the
7 destruction of records and other evidence of Defendants’ unlawful activities.

8 WHEREFORE, Commission respectfully requests that all relief requested herein be
9 granted, and that this Court enter the proposed Statutory Restraining Order freezing assets,
10 protecting Defendants’ books and records, enter an order requiring an accounting of Defendants’
11 and Relief Defendant’s Assets, grant the Commission’s request to conduct expedited discovery
12 for the purpose of discovering Defendants’ assets, appoint a receiver, and to issue an order to
13 show cause why a preliminary injunction should not be issued by this Court.
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16 Date: August ____, 2009

Respectfully submitted,
ATTORNEYS FOR PLAINTIFF

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