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FILED
CLERK, U.S. DISTRICT COURT
MAR 15 2011
CENTRAL DISTRICT OF CALIFORNIA

1 UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT CALIFORNIA

3 UNITED STATES COMMODITY
4 FUTURES TRADING
5 COMMISSION, and THE
6 COMMISSIONER OF
7 CORPORATIONS OF THE STATE
8 OF CALIFORNIA,

9 **Plaintiffs,**

10 vs.

11 THE TRADE TECH INSITUTE,
12 INC., TECHNOLOGY TRADING
13 INTERNATIONAL, INC., RICHARD
14 CARTER, AND ROBERT SORCHINI
15 (AKA “JACK GOLD” AND “FRANK
16 THOMAS”),

17 **Defendants.**

18 FILED UNDER SEAL

19 CASE NO: CV11 02163

20 [PROPOSED] ORDER GRANTING
21 CFTC’s *EX PARTE* EMERGENCY
22 APPLICATION FOR STATUTORY
23 RESTRAINING ORDER

24 Before the Court is Plaintiff Commodity Futures Trading Commission’s
25 (“CFTC”) *Ex Parte* Emergency Application for a Statutory Restraining Order,
26 Preliminary Injunction, and Other Related Equitable Relief Against Defendants
27 (“SRO Application”). The Court, having considered the SRO Application, the
28 memorandum filed in support thereof (“SRO Memo”), ~~having heard the arguments~~
29 ~~of CFTC’s counsel~~, and based upon the entire record before the Court, finds that:

1 1. This Court has jurisdiction over the parties and over the subject matter
2 of this action pursuant to Section 6c of the Commodity Exchange Act (the “Act”),
3 as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-
4 246, Title XIII (the CFTC Reauthorization Act of 2008), §§ 13101-13204, 122
5 Stat. 1651 (enacted June 18, 2008), to be codified at 7 U.S.C. § 13a-1.
6

7 2. Venue lies properly within this District pursuant to Section 6c(e) of
8 the Act, to be codified at 7 U.S.C. § 13a-1(e).
9

10 3. There is good cause to believe that defendants The Trade Tech
11 Institute, Inc. (“Trade Tech”), Technology Trading International, Inc. (“Tech
12 Trading”), Richard Carter (“Carter”), and Robert Sorchini (aka “Jack Gold” and
13 “Frank Thomas”) (“Sorchini”) (collectively, “Defendants”) have engaged, are
14 engaging, and are about to engage in acts and practices constituting violations of
15 the Act, to be codified at 7 U.S.C. §§ 1, *et seq.*
16
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18 4. There is good cause to believe that immediate and irreparable damage
19 to the Court's ability to grant effective final relief for Defendants’ clients in the
20 form of monetary redress will occur from the sale, transfer, assignment, or other
21 disposition by Defendants of assets or records unless Defendants are immediately
22 restrained and enjoined by Order of the Court.
23

24 5. Good cause exists for the freezing of assets owned, controlled,
25 managed, or held by, on behalf of, or for the benefit of Defendants.
26

1 6. Good cause exists for entry of an order prohibiting Defendants, their
2 agents, servants, employees, assigns, attorneys, and persons in active concert or
3 participation with Defendants, including any successor thereof, from destroying
4 records and/or denying CFTC representatives immediate access to inspect and
5 copy records to ensure that CFTC representatives have immediate and complete
6 access to those books and records.
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9 7. Good cause exists for the Plaintiff to conduct expedited discovery in
10 order to determine the full extent of Defendants' alleged wrongdoing, locate
11 Defendants' other clients, identify assets of Defendants, and clarify the source of
12 various funds.
13

14 8. Weighing the equities and considering the CFTC's likelihood of
15 success in its claims for relief, the issuance of a statutory restraining order is in the
16 public interest.
17

18 9. The interest of justice requires that the CFTC's obligation to notify
19 Defendants' counsel of its Application, as is required by Central District of
20 California Local Rule 7-19.1, be waived.
21

22 **I.**

23 **DEFINITIONS**

24 For purposes of this Order, the following definitions apply:
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1 10. The term “document” is synonymous in meaning and equal in scope
2 to the usage of the term in Federal Rule of Civil Procedure (“FRCP”) 34(a), and
3 includes, but is not limited to, writings, drawings, graphs, charts, photographs,
4 audio and video recordings, computer records, and other data compilations from
5 which information can be obtained and translated, if necessary, through detection
6 devices into reasonably usable form. A draft or non-identical copy is a separate
7 document within the meaning of the term.
8

9
10 11. “Assets” mean any legal or equitable interest in, right to, or claim to,
11 any real or personal property, whether individually or jointly, direct or indirect
12 control, and wherever located, including, but not limited to: chattels, goods,
13 instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or
14 other deliveries, inventory, checks, notes, accounts (including, but not limited to,
15 bank accounts and accounts at financial institutions), credits, receivables, lines of
16 credit, contracts (including spot, futures, or options contracts), insurance policies,
17 and all cash, wherever located.
18

19
20 12. “Defendants” shall mean and refer to not only Trade Tech, Tech
21 Trading, Carter, and Sorchini but also to any d/b/a, successor, affiliate, subsidiary
22 or other entity owned, controlled, managed or held by, on behalf of, or for the
23 benefit of Trade Tech, Tech Trading, Carter, and/or Sorchini.
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1 **II.**

2 **RELIEF GRANTED**

3 **Order Against Transfer, Dissipation, and Disposal of Assets**

4 **IT IS HEREBY ORDERED** that:

5 13. Defendants and their agents, servants, employees, assigns, attorneys,
6 and persons in active concert or participation with them, including any successor
7 thereof, and persons in active concert or participation with them, who receive
8 actual notice of this Order by personal service or otherwise, are immediately
9 restrained and enjoined from directly or indirectly transferring, selling, alienating,
10 liquidating, encumbering, pledging, leasing, loaning, assigning, concealing,
11 dissipating, converting, withdrawing, or otherwise disposing of any of Defendants'
12 Assets, wherever located, including Defendants' Assets held outside the United
13 States, except as provided in Section III of this Order, or as otherwise ordered by
14 the Court. The Assets affected by this paragraph shall include both existing Assets
15 and Assets acquired after the effective date of this Order.

16 14. Defendants are restrained and enjoined from directly or indirectly
17 opening or causing to be opened any safe deposit boxes titled in the name of, or
18 subject to, access by Defendants.
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1 **III.**

2 **Accounting and Transfer of Funds and Documents**

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

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6 15. Provide the CFTC with a full accounting of all Defendants' Assets,
7 both inside and outside of the United States, from January 1, 2007 to the date of
8 this Order;

9
10 16. Transfer to the territory of the United States all funds, documents, and
11 assets (other than real property) located outside the United States that are held by
12 each and every Defendant for their benefit, or under their direct or indirect control,
13 whether jointly or singly; and

14
15 17. Provide the CFTC access to all records of Defendants held by
16 financial institutions located within or outside the territorial United States by
17 signing the Consent to Release of Financial Records attached to this Order.

18 **IV.**

19 **Directives to Financial Institutions and Others**

20
21 **IT IS FURTHER ORDERED**, pending further Order of this Court, that
22 any financial or brokerage institution, business entity, or person that holds or has
23 held, controls or has controlled, or maintains or has maintained custody of any of
24 Defendants' Assets at any time since January 1, 2007, shall:
25
26

1 18. Prohibit Defendants and all other persons from withdrawing,
2 removing, assigning, transferring, pledging, encumbering, disbursing, dissipating,
3 converting, selling, or otherwise disposing of Defendants' Assets, except as
4 directed by further Order of the Court;
5

6 19. Deny Defendants and all other persons access to any safe deposit box
7 that is: (a) owned, controlled, managed, or held by, on behalf of, or for the benefit
8 of Defendants, either individually or jointly; or (b) otherwise subject to access by
9 Defendants;
10

11 20. Provide counsel for the CFTC, within five (5) business days of
12 receiving a copy of this Order, a statement setting forth: (a) the identification
13 number of each and every account or other asset owned, controlled, managed, or
14 held by, on behalf of, or for the benefit of Defendants, either individually or
15 jointly; (b) the balance of each such account, or a description of the nature and
16 value of such asset as of the close of business on the day on which this Order is
17 served, and, if the account or other asset has been closed or removed, the date
18 closed or removed, the total funds removed in order to close the account, and the
19 name of the person or entity to whom such account or other asset was remitted; and
20 (c) the identification of any safe deposit box that is owned controlled, managed, or
21 held by, on behalf of, or for the benefit of Defendants, either individually or
22 jointly, or is otherwise subject to access by Defendants; and
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1 21. Upon request by the CFTC, promptly provide the CFTC with copies
2 of all records or other documentation pertaining to such account or asset,
3 including, but not limited to, originals or copies of account applications, account
4 statements, signature cards, checks, drafts, deposit tickets, transfers to and from the
5 accounts, all other debit and credit instruments or slips, currency transaction
6 reports, Internal Revenue Service Form 1099s, and safe deposit box logs.
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9 **V.**

10 **Maintenance of Business Records**

11 **IT IS FURTHER ORDERED** that:

12 22. Defendants, and their agents, servants, employees, assigns, attorneys,
13 and persons in active concert or participation with Defendants, including any
14 successor thereof, and all other persons or entities who receive notice of this Order
15 by personal service or otherwise, are immediately restrained and enjoined from
16 directly or indirectly destroying, mutilating, erasing, altering, concealing or
17 disposing of, in any manner, directly or indirectly, any documents that relate to the
18 business practices at issue in the Complaint or business or personal finances of
19 Defendants and their subsidiaries or affiliates.
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23 **VI.**

24 **Inspection and Copying of Books and Records**

25 **IT IS FURTHER ORDERED** that:
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1 23. Representatives of the CFTC shall immediately be allowed to inspect
2 the books, records, and other documents of Defendants and their agents, including,
3 but not limited to, electronically stored information, tape recordings, and computer
4 discs, wherever they may be situated and whether they are in the person of
5 Defendants or others, and to copy said documents, information and records, either
6 on or off Defendants' premises;
7

8 24. Defendants, and their subsidiaries, affiliates, and their officers, agents,
9 servants, employees and attorneys, shall, within 24 hours of the service of this
10 Order, cause to be prepared and delivered to the CFTC, a detailed and complete
11 schedule of all desk top computers, laptop computers and/or any other electronic
12 storage devices or mobile devices, including, without limitation, smart phones and
13 personal digital assistants (collectively, "Computing Devices") owned and/or used
14 by them in connection with Defendants' business. The schedules required by this
15 section shall include at a minimum the make, model and description of each
16 Computing Device, along with its location, the name of the person primarily
17 assigned to use the Computing Device, and all passwords necessary to access and
18 use the software contained on the Computing Device. The CFTC shall be
19 authorized to make an electronic, digital or hard copy of all of the data contained
20 on the Computing Devices.
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1 expedited discovery will allow the CFTC to determine the full extent of
2 Defendants' alleged wrongdoing (including, but not limited to, the possible
3 involvement of others), locate Defendants' other victims, identify Defendants'
4 assets, and clarify the sources of various funds.
5

6 **VIII.**

7 **Bond Not Required of Plaintiff**

8 **IT IS FURTHER ORDERED** that:
9

10 28. The CFTC is an agency of the United States of America and,
11 accordingly, need not post a bond.
12

13 **IX.**

14 **Hearing**

15 **IT IS FURTHER ORDERED** that:
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17 29. The CFTC and Defendants shall appear before this Court on the 28th
18 day of March, 2011, at 9:30, a.m., before the Honorable
19 Judge George H. King at the United States Courthouse
20 for the Central District of California, Western Division, to show
21 cause, if there be any, why an Order for Preliminary Injunction should not be
22 granted to prohibit further violations of the Act and why the other relief requested
23 should not be granted pending trial on the merits of this action.
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1 30. Should any party wish to file a memorandum of law or other papers in
2 opposition to the CFTC's Application, all papers shall be filed on or before
3 March 21, 2011 by noon and served via facsimile or overnight delivery to
4 the CFTC's Kansas City office no later than 12 o'clock p.m. on
5 March 21, 2011. Any reply papers shall be filed with the Court
6 and delivered to opposing counsel no later than 12 o'clock p.m. on
7 March 23, 2011. Service of all papers shall be by electronic mail,
8 facsimile, or personal service. A mandatory chambers copy shall be provided at the
9 time of filing.

12
13 **X.**

14 **Service**

15 **IT IS FURTHER ORDERED** that:

16
17 31. Copies of this Order, summons and Complaint may be served by any
18 means, including facsimile transmission, upon any entity or person that may have
19 possession, custody, or control of any documents or Defendants' Assets that may
20 be subject to any provision of this Order, and, additionally, that Jo Mettenburg,
21 Peter Riggs, Jeff Le Riche, Jennifer Chapin, Stephen Turley, Jeremy Christianson,
22 Joyce Brandt, Gina Weydert, and Richard Glaser, or representatives thereof, and
23 representative(s) of the U.S. Marshal Service are specially appointed by the Court
24 to effect service, and service on corporate entities may be effected by serving the

1 Summons, Complaint, or other process via overnight delivery to the registered
2 agent of said corporate entities. Further, law enforcement officers, including but
3 not limited to U.S. Marshals and members of the Los Angeles Police Department
4 or other local law enforcement agencies, are authorized to assist CFTC
5 representatives in effecting service of the Order, summons and Complaint upon
6 Defendants and carrying out the seizure of documents as set out in this Order in
7 accordance with FRCP 4. The U.S. Marshals and members of the Los Angeles
8 Police Department or other local law enforcement agencies shall be permitted to
9 accompany CFTC personnel to any location necessary to effectively execute this
10 Order for the purpose of ensuring the security of CFTC personnel. Any fees
11 incurred by the CFTC for services rendered by the U.S. Marshals shall be waived.
12 The U.S. Marshals and members of the Los Angeles Police Department or other
13 local law enforcement agencies are hereby held harmless for their actions in
14 effecting the provisions of this Order.

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19 **XI.**

20 **Force and Effect**

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22 **IT IS FURTHER ORDERED** that this Order shall remain in full force and
23 effect until further order of this Court and that this Court retains jurisdiction of this
24 matter for all purposes.
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IT IS SO ORDERED, at Los Angeles, on the 15 day of

March 2011, at _____.m.

Audrey Collins

UNITED STATES DISTRICT JUDGE
CENTRAL DISTRICT OF CALIFORNIA

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1 **CONSENT TO RELEASE OF FINANCIAL RECORDS**

2 I, _____, a resident of _____, do hereby direct any bank,
3 trust, or other financial company, as well as any of its officers, employees, and agents, at which I
4 have or had a bank account or other financial account of any kind operated under my name or
5 any other name (including any corporation or other entity) for which I am or was authorized to
6 draw on the account, to disclose all information and deliver copies of all documents of every
7 nature in the bank's, trust's, or other financial company's possession or control which relate to
8 said bank or other financial accounts to any attorney of the United States Commodity Futures
9 Trading Commission, and to give evidence relevant thereto, in the matter of Commodity Futures
10 Trading Commission v. The Trade Tech Institute, Inc., et al., Case No. _____, now
11 pending before the United States District Court for the Central District of California, and this
12 shall be irrevocable authority for so doing. This direction is intended to apply to the laws of
13 countries other than the United States which restrict or prohibit the disclosure of bank
14 information without the consent of the holder of the account, and shall be construed as consent
15 with respect thereto, and the same shall apply to any of the bank accounts or other financial
16 accounts for which I may be a relevant principal.

17 Dated: _____ Signature: _____

18 Print name: _____