

1 UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF WASHINGTON

17 CV-00847 JLR

3 U.S. Commodity Futures Trading  
4 Commission,

CIVIL CASE NO.

5 Plaintiff,

FILED UNDER SEAL

6  
7 v.

Order Granting *Ex Parte* Statutory  
Restraining Order, Expedited Discovery  
And Other Equitable Relief And Motion  
For A Preliminary Injunction

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9 PISHON HOLDING LLC, a Limited  
10 Liability Company, SUNG HONG a/k/a  
11 LAWRENCE HONG OR LAURENCE  
12 HONG, an individual, and HYUN JOO  
13 HONG a/k/a GRACE HONG, an  
individual,

Defendants.

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15 Plaintiff, the Commodity Futures Trading Commission ("Commission" or "CFTC"),  
16 pursuant to 7 U.S.C. § 13a-1(a) (2012), has filed A) a Complaint For Injunctive Relief And Other  
17 Equitable Relief, Restitution, Civil Monetary Penalties Under The Commodity Exchange Act;  
18 and B) Motion And Memorandum Of Law In Support Of Request For An Emergency, *Ex Parte*  
19 Statutory Restraining Order, Expedited Discovery And Other Equitable Relief; And (2)  
20 Memorandum Of Law In Support Of Motion For A Preliminary Injunction ("SRO Memo").  
21

22 The Court has considered the pleadings, declarations, exhibits, and memorandum filed in  
23 support of the CFTC's SRO Memo and finds that:

- 24 1. This Court has jurisdiction over the parties and over the subject matter of this  
25 action pursuant to 7 U.S.C. § 13a-1 (2012).  
26  
27 2. Venue lies properly within this District pursuant to 7 U.S.C. §13a-1(e) (2012).  
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*Based on the evidence submitted to this court by Plaintiff,*

1 3. *There is good cause to believe that Defendants Sung Hong a/k/a Lawrence Hong*  
2 *or Laurence Hong ("Laurence Hong"), Hyun Joo Hong a/k/a Grace Hong ("Grace Hong"), and*  
3 *Pishon Holding LLC ("Pishon") (collectively "Defendants"), have engaged in, are engaging in*  
4 *and are about to engage in acts in violation of 7 U.S.C. §§ 6b(a)(1)(A) and (C) (2012). Specifically,*  
5 *there is good cause to believe that*  
6 *from at least September 1, 2015 through the present (the "Relevant Period"), Defendants*

7 *fraudulently solicited at least \$11 million in connection with investments in exchange-traded*  
8 *commodity futures contracts. In addition, there is good cause to believe that*  
9 *during the Relevant Period, Defendants made material*  
10 *misrepresentations and fraudulent omissions to existing and prospective customers regarding,*  
11 *among other things, the management fee, the lack of risk associated with trading with*  
12 *defendants, Grace Hong's background and omitted material information such as Laurence*  
13 *Hong's past misappropriation in connection with investment funds for which he was sentenced*  
14 *to prison.*

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

20 5. There is good cause for the Court to freeze assets owned, controlled, managed, or  
21 held by or on behalf of, or for the benefit of Defendants, including assets in accounts held by  
22 Pishon.

24 6. There is good cause for entry of an order prohibiting Defendants, their agents,  
25 servants, employees, assigns, attorneys, and persons in active concert or participation with  
26 Defendants, including any successor thereof, from destroying records and/or denying agents of  
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*JLR*

1 the Commission access to inspect and copy records to ensure that Commission representatives  
2 have immediate and complete access to those books and records.

3 7. Absent the entry of this *ex parte* Statutory Restraining Order ("SRO"), there is  
4 *good cause to believe that*  
5 Defendants are likely to dissipate or transfer assets and destroy business records.

6 8. In addition, there is good cause for the Plaintiff to conduct expedited discovery in  
7 order to determine the full extent of Defendants' alleged wrongdoing, locate other defrauded  
8 customers, locate customer funds and other assets of Defendants and, clarify the source and  
9 whereabouts of various funds.

10 9. This is a proper case for granting an *ex parte* SRO to preserve the *status quo*,  
11 protect customers from loss and damage, and enable the CFTC to fulfill its statutory duties,  
12 therefore the Court orders as follows:

#### 14 DEFINITIONS

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

16 10. The term "assets" means any legal or equitable interest in, right to, or claim to,  
17 any real or personal property, whether individually or jointly, directly or indirectly controlled,  
18 and wherever located, including but not limited to: chattels, goods, instruments, equipment,  
19 fixtures, general intangibles, effects, leaseholds mail or other deliveries, inventory, checks,  
20 notes, accounts (including, but not limited to, bank accounts and accounts at other financial  
21 institutions), credits, receivables, lines of credit, contracts (including spot, futures, options, or  
22 swaps contracts), insurance policies, and all cash, wherever located, whether in the United  
23 States or outside the United States.

24 11. The term "document" is synonymous in meaning and equal in scope to the usage  
25 of the term in Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 34(a), and includes, but is not  
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1 limited to, all writings or printed matter of any kind, including without limitation: records,  
2 correspondence, memoranda, notes, rolodexes, address books, diaries, statistics, e-mail, letters,  
3 telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries,  
4 pamphlets, books, prospectuses, interoffice or intra-office communications, telephone message  
5 slips, offers, notations of conversations, bulletins, drawings, plans, computer printouts,  
6 computer input or output, teletypes, facsimiles, invoices, worksheets, ledger books, books of  
7 accounts, and all drafts, alterations, modifications, changes and amendments of any of the  
8 foregoing. The term "document" also includes graphs, charts, photographs, phonographic  
9 record, audio and video recordings, computer records, and other data compilations from which  
10 information can be obtained or translated, if necessary, through detection devices into  
11 reasonable usable form. The term "document" also refers to each and every document in your  
12 actual or constructive possession, including but not limited to: (i) all documents within your  
13 custody or control of any of your present or former agents, employers, employees, partners, and  
14 (ii) all documents which you have a legal or equitable right to obtain from another person. A  
15 draft or non-identical copy is a separate document within the meaning of the term. A document  
16 also includes the file and folder tabs associated with each original and copy.  
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20 12. "Defendants" refers to Pishon, Laurence and/or Grace Hong, and any person  
21 insofar as he or she is acting in the capacity of an officer, agent servant, employee, or attorney  
22 of any Defendant and any person who receives actual notice of this Order by personal service or  
23 otherwise insofar as he or she is acting in concert or participation with any Defendant.  
24

25 Defendants also refers to any d/b/a, successor, affiliate, subsidiary, or other entity owned,  
26 controlled, managed, or held by, on behalf of, or for the benefit of Pishon, Laurence and/or  
27 Grace Hong.  
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**RELIEF GRANTED**

**I.**

**Asset Freeze Order Prohibiting the Transfer,  
Removal, Dissipation, and Disposal of Assets**

13. **IT IS HEREBY ORDERED** that Defendants and their agents, servants, employees, assigns, attorneys, and persons 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, selling, alienating, liquidating, encumbering, pledging, leasing, loaning, assigning, concealing, dissipating, converting, withdrawing, or otherwise disposing of any assets, wherever located, and including Defendants' assets held outside the United States.

14. 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 any Defendant.

15. The assets affected by this Order shall include both existing assets and assets acquired after the effective date of this Order.

**II.**

**Directives to Financial Institutions and Others**

16. **IT IS FURTHER ORDERED** that, 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 titled in the name of, held for the benefit of, or otherwise under the control of Defendants, or has held, controlled, or maintained custody of any such account or asset of Defendant at any time since September 1, 2015 shall:

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

- 6  
7 e. Cooperate with all reasonable requests of the CFTC relating to  
8 implementation of this Order, including transferring funds at the CFTC's  
9 direction and producing records related to Defendants' accounts.

10 **III.**

11 **Maintenance of and Access to Business Records**

12 **IT IS FURTHER ORDERED that:**

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14 17. Defendants and all persons or entities who receive notice of this Order by  
15 personal service or otherwise, are restrained from directly or indirectly destroying, mutilating,  
16 erasing, altering, concealing or disposing of, in any manner, directly or indirectly, any  
17 documents that relate to the business practices or business or personal finances of Defendants.  
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19 **IV.**

20 **Inspection and Copying of Books and Records**

21 **IT IS FURTHER ORDERED that:**

22 18. Representatives of the CFTC be immediately allowed to inspect the <sup>nonprivileged</sup> books,  
23 records, and other documents of Defendants and their agents including, but not limited to, paper  
24 documents, electronically stored information, tape recordings, and computer discs, wherever  
25 they may be situated and whether they are in the possession of Defendants or others, and to  
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1 <sup>non-privileged</sup>  
2 copy said documents, data and records, either on or off the premises where they may be  
3 situated.

4 19. Defendants shall, within 72 hours after being served with this Order, cause to be  
5 prepared and delivered to the CFTC, a detailed and complete schedule of all passwords and  
6 identification (ID) numbers for all websites and all accounts at any bank, financial institution or  
7 brokerage firm (including any introducing broker or futures commission merchant) operated by  
8 or to which Defendants have access.

9 20. Defendants shall, within 72 hours after being served with this Order, cause to be  
10 prepared and delivered to the CFTC, a detailed and complete schedule of all desk top  
11 computers, laptop computers and or mobile devices owned and/or used by him <sup>or her</sup> in connection  
12 with their business. The schedules required by this section shall include at a minimum the  
13 make, model and description of each, along with the location, the name of the person primarily  
14 assigned to use the computer and/or mobile communication device, and all passwords necessary  
15 to access and use the software contained on the computer and/or mobile communication device.  
16 The CFTC shall be authorized to make an electronic, digital or hard copy of all of the data  
17 contained on the computer(s) and/or mobile communication device(s).  
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20 V.

21 Service of Order

22 IT IS FURTHER ORDERED that:

23 21. Copies of this Order may be served by any means, including facsimile  
24 transmission, upon any financial institution or other entity or person that may have possession,  
25 custody, or control of any documents or assets of Defendants, or that may be subject to any  
26 provision of this Order.  
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1 will allow the CFTC to determine the full extent of Defendants' alleged wrongdoing (including,  
2 but not limited to, the possible involvement of others), locate Defendants' other customers,  
3 identify customer funds and other assets, and clarify the sources of various funds.

4 26. No deposition taken pursuant to this section shall count towards the ten-  
5 deposition limit set forth in Federal Rule of Civil Procedure 30(a)(2)(A)(i).  
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7 **VII.**

8 **Service on the CFTC**

9 **IT IS FURTHER ORDERED that:**

10 27. Defendants shall comply with all electronic filing rules and requirements of the  
11 U.S. District Court for the Western District of Washington and shall serve all pleadings,  
12 correspondence, notices required by this Order, and other materials on the Commission by  
13 delivering a copy to Alison Wilson, Chief Trial Attorney, Division of Enforcement, Commodity  
14 Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581, by electronic  
15 filing, e-mail, personal delivery or courier service (such as Federal Express or United Parcel  
16 Service) and not by regular mail due to potential delay resulting from heightened security and  
17 decontamination procedures applicable to the CFTC's regular mail.  
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VIII.

Bond Not Required of Plaintiff

IT IS FURTHER ORDERED that:

28. As the CFTC is an agency of the United States of America which has made a proper showing under 7 U.S.C. § 13a-1(b) (2012), this restraining order is granted without bond. Accordingly, the CFTC need not post a bond.

IX.

Order to Show Cause

IT IS FURTHER ORDERED that:

29. Defendants shall appear before this Court on the 12<sup>th</sup> day of June, 2017, at 8:30am before the Honorable James L. Robert, Courtroom 14106 at the United States Courthouse for the Western District of Washington, located at 700 Stewart St, Seattle, WA 98101 to respond to the Commission's Motion for a Preliminary Injunction.

30. 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 served and filed on or before 2:00 pm on June 8, 2017. Any reply papers shall be served and filed on or before June 9, 2017. Service of all papers shall be by electronic mail, facsimile, or personal service.

X.

Force and Effect

IT IS FURTHER ORDERED that:

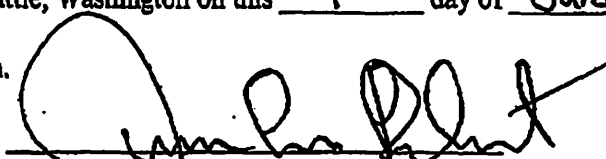
33. Pursuant to Federal Rule of Civil Procedure 15(b)(2), This Order shall remain in full force and effect until further order of this Court, June 15, 2017, or until and that this Court retains jurisdiction of this matter for all purposes.

see Commodity Futures Trading Comm'n v. Lake Shore Asset Mgmt., Ltd., 496 F.3d 769 (7th Cir. 2007) (holding that the time limits in Rule 65 apply to the statutory injunctions entered under the Commodity Exchange Act).

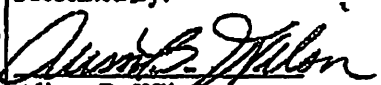
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IT SO ORDERED, at Seattle, Washington on this 1<sup>st</sup> day of June,  
2017 at 3:31 ~~a.m.~~/p.m.

  
UNITED STATES DISTRICT JUDGE

Presented by:

  
Alison B. Wilson  
Attorney for Plaintiff