

**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

**ANDREW DUNCAN and
THE AURUM SOCIETY, INC.,**

Defendants.

CIVIL ACTION NO. 01C-6802

ORDER

**STATUTORY *EX PARTE* RESTRAINING
ORDER**

The Court having read the Complaint for Injunctive and Other Equitable Relief, the Plaintiffs Motion for a Statutory *Ex Parte* Restraining Order (“SRO”), the Brief in Support of Plaintiff’s Motion for a SRO, the Declarations of William W. Heitner, Jr., F. Scott Allen, John Doramus, Serge Gauthier, Mark A. Martin, and the Certification of the National Futures Association, and attachments thereto, and all other papers filed herein by the Plaintiff, Commodity Futures Trading Commission (“Commission”), it appearing that the Court has jurisdiction over the subject matter and that Section 6c of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. § 13a-1 (1994), permits this Court to grant an *ex parte* restraining order; it further appearing to the satisfaction of the Court that there is good cause to believe that defendants Andrew Duncan and The Aurum Society, Inc. (collectively “the Defendants”), have engaged, are engaging in and are about to engage in violations of Sections 4b(a)(i), 4b(a)(ii), 4b(a)(iii), 4m(1) and 4o(1) of the Commodity Exchange Act (“the Act”), 7 U.S.C. §§ 6b(a)(i),

6b(a)(ii), 6b(a)(iii), 6(m)(1) and 6q(1) (1994), as amended by the Commodity Futures Modernization Act of 2000, Appendix E to Pub. L. No. 106-554, 114 Stat. 2763 (2000), and Commission Regulations 4.21, 4.22, 4.31 and 33.10 thereunder, 17 C.F.R. §§ 4.21, 4.22, 4.31 and 33.10 (2001), and it further appearing to the satisfaction of the Court that this is a proper case for granting an *ex parte* restraining order to preserve the *status quo* and to protect public customers from further loss and damage;

IT IS HEREBY ORDERED:

1. That Andrew Duncan, all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns or attorneys of the Defendants 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, shall be prohibited from directly or indirectly:

- a) Dissipating, withdrawing, transferring, removing, concealing or disposing of cash, cashier's checks, funds, assets or other property of, or within the custody, control or possession of the defendants, including funds or property of investors, wherever located, whether held in the name of Andrew Duncan, The Aurum Society, or otherwise; and
- b) 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 the defendants, wherever located, including all such records concerning the defendants' business operations, until further order of the Court.

2. IT IS FURTHER ORDERED that each firm, corporation or other person or entity with notice which holds, or which is a depository of, funds, securities, property, or other assets of or under the control of Andrew Duncan or The Aurum Society, whether held in the name of Andrew Duncan, The Aurum Society, Inc. or otherwise, including funds and property of investors, is prohibited from transferring, withdrawing, removing or disposing of any such funds, securities, property, or other assets until further order of the Court.

3. IT IS FURTHER ORDERED that representatives of the plaintiff Commission be allowed to immediately inspect the books, records and other electronically stored data, tape recording, and other documents of defendants Andrew Duncan and The Aurum Society and their agents, including all such records of Defendants' business operations, wherever they are situated and whether they are in the hands of the Defendants or others and to copy said documents, data, and records either on or off the premises wherever they may be situated.

4. IT IS FURTHER ORDERED that this Order may be served by facsimile transmissions.

5. IT IS FURTHER ORDERED that this *Ex Parte* Restraining Order shall remain in full force and effect until further Order of this Court, upon application, notice and an opportunity to be heard.

6. IT IS FURTHER ORDERED that plaintiff's Motion for a Preliminary Injunction is set for hearing on _____, 2001, at _____ a.m.

7. IT IS FURTHER ORDERED that William W. Heitner, Jr., an employee of the Commission, is hereby specially appointed to serve process, including the summons and complaint, and all other papers in this cause.

Date: August 30, 2001

United States District Judge

Time: _____