

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

COMMODITY FUTURES TRADING
COMMISSION,

No. 2:20-cv-01184-TLN-AC

Plaintiff,

v.

ORDER

FINANCIAL TREE dba FINANCIAL
TREE TRUST; FINANCIAL SOLUTION
GROUP dba FINANCIAL SOLUTION
GROUP TRUST; NEW MONEY
ADVISORS, LLC; THE LAW FIRM OF
JOHN GLENN, P.C.; JOHN D. BLACK
aka JOHN BARNES; CHRISTOPHER
MANCUSO; JOSEPH TUFO; and JOHN
P. GLENN,

Defendants;

SUISSE GROUP (USA) LLC; JMC
INDUSTRIES LLC; LANDES CAPITAL
MANAGEMENT, LLC; KINGDOM
TRUST LLC; HERBERT CASWELL;
ANNE MANCUSO; and TYLER
MANCUSO,

Relief Defendants.

///
///
///

1 Presently before the Court is Plaintiff Commodity Futures Trading Commission (“CFTC”)
2 and Defendant John P. Glenn’s (“Glenn”) Joint Motion to Modify Preliminary Injunction with
3 Respect to Defendant John P. Glenn. (ECF No. 62.) No party objects to this motion. For the
4 reasons set forth below, CFTC and Glenn’s joint motion is GRANTED.

5 **I. FACTUAL AND PROCEDURAL BACKGROUND**

6 On July 2, 2020, this Court issued a Statutory Restraining Order (“SRO”), freezing assets,
7 prohibiting the destruction of records, and requiring CFTC be provided immediate access to those
8 records. (ECF No. 9.) On July 28, 2020, the Court issued a Preliminary Injunction (“PI”) that
9 continued the terms set forth in the SRO and additionally required a complete accounting from
10 Defendants and Relief Defendants¹ and prohibited Defendants from committing future violations
11 of the Commodity Exchange Act (“Act”) and Commission Regulations or engaging in
12 commodity-related activities. (ECF No. 33.)

13 In a joint motion submitted by counsel for CFTC, the parties currently seek to modify the
14 conditions of the asset freeze as it pertains to Glenn, so that he may use money from legitimate
15 sources of income earned, obtained, and/or borrowed from third parties after July 2, 2020 (the
16 effective date of the SRO) (ECF No. 9), that is not derived from the conduct alleged in the
17 Complaint (ECF No. 1) and is not otherwise related to this case (“Legitimate New Income”) to
18 pay for: (1) his reasonable living expenses (“Glenn Living Expenses”); (2) certain reasonable
19 living expenses for his daughter, Genevieve Glenn (“Genevieve Living Expenses”); (3)
20 reasonable attorney’s fees in connection with the instant litigation (“Glenn Attorney Fees”); and
21 (4) reasonable business expenses of Glenn’s law firm (“Glenn Law Firm Business Expenses”)
22 (collectively, “Reasonable New Glenn Expenses”). (ECF No. 62 at 1–2.)

23 **II. STANDARD OF LAW**

24 “The district court has inherent power as a court of equity to order such temporary,

25 ¹ The July 28, 2020 PI was issued against Defendants John D. Black and his affiliated
26 entities Financial Tree, Financial Solution Group, and New Money Advisors, LLC; Christopher
27 Mancuso; Joseph Tufo; and Glenn and The Law Firm of John Glenn, P.C. (collectively,
28 “Defendants”) and Relief Defendants Suisse Group (USA) LLC; JMC Industries LLC; Landes
Capital Management, LLC; Kingdom Trust LLC; Herbert Caswell; Anne Mancuso; and Tyler
Mancuso (collectively, “Relief Defendants”). (ECF No. 33.)

1 ancillary relief in order to preserve the status quo so that an ultimate decision for the [CFTC]
2 could be effective.” CFTC v. Muller, 570 F.2d 1296, 1300 (5th Cir. 1978) (citing SEC v. Manor
3 Nursing Centers, Inc., 458 F.2d 1082, 1105–06 (2d Cir. 1972)). “When modifying a preliminary
4 injunction, a court is charged with the exercise of the same discretion it exercised in granting or
5 denying injunctive relief in the first place.” Sierra Club v. U.S. Army Corps of Eng ’rs, 732 F.2d
6 253, 256 (2d Cir.1984); see also Gonzalez v. Axess Trade Co., Inc., No. 04 Civ. 3762(RCC), 2005
7 WL 1384019, at *4 (S.D.N.Y. Jun. 9, 2005). The same is true for equitable relief, like the PI in
8 this case, that has been issued under the Act. See CFTC v. British Am. Commodity Options
9 Corp., 560 F.2d 135, 141 (2d Cir.1977) (holding that courts are vested with continuing equitable
10 discretion over statutory injunctions); see also CFTC v. Battoo, 66 F. Supp. 3d 1095, 1096 (N.D.
11 Ill. 2014), *aff’d*, 790 F.3d 748 (7th Cir. 2015) (district judge has discretion to revise a preliminary
12 remedy if persuaded that change had benefits for the parties and the public interest).

13 **III. ANALYSIS**

14 Here, the Court finds good cause exists to grant the requested modification to the PI.
15 Permitting the Reasonable New Glenn Expenses provides an incentive and ability for Glenn to
16 continue operating his business, which is important to ensure Glenn’s ability to satisfy any
17 judgment that may ultimately be entered against him. See CFTC v. Morgan, Harris & Scott, Ltd.,
18 484 F. Supp. 669, 678 (S.D.N.Y. 1979) (purpose of granting injunctive relief was, in part, to
19 ensure ability to later compensate defrauded consumers). Furthermore, permitting such expenses
20 enables Glenn to purchase basic necessities as well as engage in constitutionally-protected
21 activity (such as spending untainted income on reasonable attorney’s fees in connection with any
22 related criminal investigation). (See ECF No. 62 at 2.) Finally, the Court notes that the proposed
23 modification appears reasonable because it is narrowly-tailored to permit Glenn to use only
24 legitimate income, while safeguarding CFTC’s right to object to any expenditure as unreasonable
25 and to request any and all appropriate relief from the Court. (See *id.*) Accordingly, the Court
26 finds good cause exists to lift the asset freeze as it pertains specifically to Glenn, and only to the
27 extent that he may use Legitimate New Income to pay for his Reasonable New Glenn Expenses as
28 detailed herein.

1 **IV. CONCLUSION**

2 For the foregoing reasons, the parties' joint motion is GRANTED. (ECF No. 62.) The
3 Court hereby modifies the July 28, 2020 PI (ECF No. 33) as follows:

4 1. Except as modified herein, the PI issued on July 28, 2020 (ECF No. 33), shall remain
5 in full force and effect pending trial, final disposition of this action, or further order of this Court,
6 and the Court retains jurisdiction of this matter for all purposes.

7 2. Nothing in the PI shall prevent Glenn from earning income from legitimate business
8 activities. Subject to the reporting requirements of this Order, Glenn may use Legitimate New
9 Income for the aforementioned Reasonable New Glenn Expenses. To facilitate those
10 expenditures, Glenn may open the following bank accounts at the Bank of Colorado:

- 11 a) One personal bank account in Glenn's name ("New Glenn Personal Account");
12 b) One business operating account in the name of John Glenn Law, LLC ("New
13 Glenn Law Firm Business Account"), a new entity registered with the
14 Colorado Secretary of State, separate from Glenn's existing law firm (The Law
15 Firm of John Glenn, P.C., which is a Defendant in this case); and
16 c) One IOLTA (COLTAF) trust account in the name of John Glenn Law, LLC
17 COLTAF ("New Glenn Law Firm IOLTA Account") (collectively, the "New
18 Glenn Bank Accounts").

19 3. As a condition of the expenditures and activities permitted by Paragraph 2, Glenn must
20 comply with the following:

- 21 a) The New Glenn Personal Account shall be in Glenn's name only.
22 b) The New Glenn Law Firm Business Account and the New Glenn Law Firm
23 IOLTA Account shall be in the name of John Glenn Law, LLC only.
24 c) Glenn is prohibited from providing any other entity or individual any control,
25 direct or indirect beneficial interest, discretionary authority, signatory
26 authority, or power of attorney over any New Glenn Bank Account.
27 d) Upon opening each New Glenn Bank Account, Glenn shall immediately notify
28 CFTC as to the type of account (i.e., checking, savings, etc.), the account

1 number, and the name on the account.

- 2 e) Glenn shall deposit all Legitimate New Income into one or more New Glenn
3 Bank Accounts.
- 4 f) Glenn shall not open any safety deposit boxes.
- 5 g) Within 30 days of the date of electronic filing of this Order, Glenn shall
6 provide CFTC with three months of personal and business financial records
7 preceding July 2, 2020, sufficient to substantiate Glenn's living expenses,
8 Glenn's expenditures on Genevieve Glenn's living expenses, and Glenn's
9 business expenses during that three-month period. The purpose of this
10 provision is to provide a baseline to assess the reasonableness of the New
11 Glenn Expenses.
- 12 h) Within 30 days of the date of electronic filing of this Order, and every 30 days
13 thereafter, Glenn shall provide CFTC with a detailed description of all
14 Legitimate New Income and all expenditures made by Glenn and the New
15 Glenn Law Firm within the preceding 30-day period. The description shall
16 make clear the nature of each expense and be supported by records sufficient to
17 substantiate each expense, to enable CFTC to assess whether, in CFTC's view,
18 the expenses constitute Reasonable New Glenn Expenses, as opposed to
19 expenses that are unreasonable or otherwise disallowed by this Order. Such
20 records shall include, at minimum, monthly account statements from each New
21 Glenn Bank Account, with notations, if necessary, to clarify the nature of each
22 expenditure.
- 23 i) To the extent Glenn borrows money from third parties to pay Glenn attorney
24 fees, Glenn shall, within 30 days of borrowing such funds, submit to CFTC: (i)
25 documents sufficient to evidence the provision of funds to Glenn, any
26 repayment terms, and the transfer of funds to Glenn's attorney; (ii) an affidavit
27 from the third party establishing that such funds were not derived, directly or
28 indirectly, from the conduct alleged in the Complaint (ECF No. 1); and (iii) an

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

affidavit from Glenn establishing that Glenn intends to repay the loan with future Legitimate New Income.

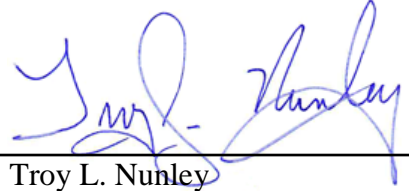
j) If any New Glenn Bank Account is closed, either by Glenn or the bank, then Glenn shall immediately notify CFTC and provide copies of documents relating to the closing of the accounts, including close-out statements and all documents reflecting the reason the accounts were closed.

k) Glenn shall cooperate with all reasonable CFTC requests for additional information, including follow-up requests for additional documents or information substantiating Glenn's expenditures.

4. CFTC retains the right to object to any expenditure as unreasonable or otherwise disallowed by this Order, and to request any and all appropriate relief from this Court in the event of such expenditures.

IT IS SO ORDERED.

DATED: October 8, 2020



Troy L. Nunley
United States District Judge