

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

FILED  
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U.S. DISTRICT COURT  
DISTRICT OF MASS.

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

My Big Coin Pay, Inc., Randall Crater, and Mark  
Gillespie,

Defendants,

Kimberly Renee Benge, Kimberly Renee Benge  
d/b/a Greyshore Advertisement a/k/a Greyshore  
Advertiset, Barbara Crater Meeks, Erica Crater,  
Greshore, LLC, Greyshore Technology, LLC,

Relief Defendants.

Case No.

18-10077-RWZ

Filed Under Seal

*RWZ*  
[PROPOSED] ORDER  
GRANTING PLAINTIFF'S MOTION  
FOR AN *EX PARTE* TEMPORARY  
RESTRAINING ORDER

Plaintiff Commodity Futures Trading Commission ("Commission") has filed a Complaint For Injunctive and Other Equitable Relief and For Civil Monetary Penalties Under the Commodity Exchange Act and Commission Regulations ("Complaint"), and moved, pursuant to Section 6c(a) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 13a-1(a) (2012), and in accordance with Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 65, for an *ex parte* temporary restraining order (1) freezing Defendants' and Relief Defendants' assets by prohibiting them from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property; and (2) prohibiting Defendants and Relief Defendants from destroying, altering or disposing of any books and records or other documents.

The Court finds that Commission has made the showing required by Fed. R. Civ. P. 65(b)(1), and in addition, that the Commission has shown that: (1) it is reasonably likely to

establish that Defendants Randall Crater, Mark Gillespie, and My Big Coin Pay, Inc. by and through its agents, principals, and control person(s), Gillespie and Crater, (collectively, “Defendants”) have engaged in, are engaging in, and are about to engage in the violations alleged in the complaint, specifically a fraudulent and deceptive scheme in connection with a virtual currency, a commodity in interstate commerce, in violation of Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012), and Commission Regulation (“Regulation”) 180.1(a), 17 C.F.R. § 180.1(a) (2017); (2) there is a reasonable likelihood that these violations are ongoing; (3) there is a strong indication that unless restrained and enjoined by Order of this Court, Defendants may dissipate and conceal assets which could be subject to an order of disgorgement or an order to pay a civil monetary penalty in this action; and (4) entry of a temporary restraining order freezing assets is in the public interest.

The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support of the Commission’s motion and finds that:

1. This Court has jurisdiction over the parties and over the subject matter of this action pursuant to Section 6c of the Act.
2. Venue lies properly within this District pursuant to Section 6c(e) of the Act.
3. There is good cause to believe that Randall Crater, Mark Gillespie, and My Big Coin Pay, Inc. by and through its agents, principals, and control person(s), Gillespie and Crater, (collectively, “Defendants”) have engaged in, are engaging in, and are about to engage in the violations alleged in the complaint, specifically a fraudulent and deceptive scheme in connection with a virtual currency, a commodity in interstate commerce, in violation of Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2012), and Commission Regulation (“Regulation”) 180.1(a), 17 C.F.R. § 180.1(a) (2017).

4. There is good cause to believe that since January 2014, Defendants have engaged in a deceptive virtual currency scheme, fraudulently soliciting approximately \$6 million from at least twenty-eight individuals. Defendants fraudulently offered for sale to members of the public My Big Coin (“MBC”), a virtual currency. To entice people to purchase MBC, Defendants repeatedly made false and misleading claims and omissions about MBC’s value, usage, trade status, and financial backing. Contrary to their claims, Defendants misappropriated almost all of the approximately \$6 million they obtained from customers (“MBC Customers”), and used the money to fund a lavish lifestyle.

5. There is good cause to believe that Relief Defendants Kimberly Renee Bengé; Kimberly Renee Bengé d/b/a Greyshore Advertisement a/k/a Greyshore Advertiser (“Greshore Advertisement”); Barbara Crater Meeks; Erica Crater; Greyshore, LLC (“Greshore”); and Greyshore Technology, LLC (“Greshore Technology”) (collectively, “Relief Defendants”) have received, are receiving, and are about to receive funds, assets or other property as a result of Defendants’ violative acts and practices and has been unjustifiably enriched thereby. The Relief Defendants do not have any legitimate interest or entitlement to these funds, assets or other property received as a result of Defendants’ violative conduct.

6. There is good cause to believe that immediate and irreparable damage to the Court’s ability to grant effective final relief for customers in the form of monetary redress will occur from the withdrawal, transfer, removal, dissipation, or other disposition of funds, assets, or other property or destruction, alteration, or disposition of books and records and other documents (“records”) by Defendants and Relief Defendants unless Defendants and Relief Defendants are immediately restrained and enjoined by Order of the Court.

7. Therefore, there is good cause for the Court to prohibit Defendants and Relief Defendants from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property owned, controlled, managed, or held by Defendants and Relief Defendants or in which they have any beneficial interest.

8. There is also good cause for entry of an order prohibiting Defendants and Relief Defendants from destroying, altering, or disposing of records.

9. There is good cause to believe that, absent the entry of this *ex parte* temporary restraining order, Defendants and Relief Defendants are likely to transfer or dissipate assets or destroy or alter business records.

10. This is a proper case for granting a restraining order *ex parte* to preserve the status quo, protect public customers from loss and damage, and enable the Commission to fulfill its statutory duties, therefore the Court orders as follows:

#### **DEFINITIONS**

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

11. The terms “funds, assets, or other property” encompass any legal or equitable interest in, right to, or claim to, any real or personal property, whether individually or jointly, directly or indirectly controlled, and wherever located, including but not limited to: chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds mail or other deliveries, inventory, checks, notes, accounts (including, but not limited to, bank accounts and accounts at other financial institutions), credits, receivables, lines of credit, contracts (including spot, futures, options, or swaps contracts), insurance policies, and all funds, wherever located, whether in the United States or outside the United States.

12. The terms “documents” and “electronically stored information” are synonymous in meaning and equal in scope to the usage of those terms in Fed. R. Civ. P. 34(a), and include, but are not limited to, all writings, drawings, graphs, charts, photographs, sound recordings, images, and other data and data compilations – stored in any medium from which information can be obtained or translated, if necessary, into reasonable usable form. The terms “documents” and “electronically stored information” also refer to each and every such item in Defendants’ or Relief Defendants’ actual or constructive possession, including but not limited to: (i) all such items within Defendants’ and Relief Defendants’ custody or control of any of present agents, employers, employees, partners, and (ii) all items which Defendants and Relief Defendants have a legal or equitable right to obtain from another person. A draft or non-identical copy is a separate item within the meaning of the terms. A document also includes the file and folder tabs associated with each original and copy.

13. “Defendants” refers to Randall Crater, Mark Gillespie, and My Big Coin Pay, Inc.

14. “Relief Defendants” means and refers to Kimberly Renee Benge; Kimberly Renee Benge d/b/a Greyshore Advertisement a/k/a Greyshore Advertiset; Barbara Crater Meeks; Erica Crater; Greyshore, LLC; and Greyshore Technology, LLC.

### **RELIEF GRANTED**

#### **IT IS FURTHER ORDERED THAT:**

#### **I. Order Prohibiting the Withdrawal, Transfer, Removal, Dissipation, and Disposal of Assets**

15. Defendants and Relief Defendants are immediately restrained and enjoined, except as otherwise ordered by this Court, from directly or indirectly: withdrawing, transferring, removing, dissipating, or otherwise disposing of any funds, assets or other property, wherever

located, including Defendants' and Relief Defendants' funds, assets, or other property held outside the United States;

16. Defendants and Relief 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 Defendants and Relief Defendants, except as otherwise ordered by the Court.

17. The funds, assets or other property affected by this Order shall include existing funds, assets or other property, or funds, assets, or other property acquired after the effective date of this Order.

**II. Maintenance of All Records Relating to the Business Activities and Business and Personal Finances**

18. The Defendants and Relief Defendants are restrained from directly or indirectly destroying, altering, or disposing of, in any manner, any records that relate or refer to the business activities and business and personal finances of any Defendant or Relief Defendant.

**III. Notice to Financial Institutions and Others That Hold or Control Assets or Records**

19. To ensure the effectiveness of the asset freeze and pending further Order of this Court, any financial or brokerage institution, business entity, or person that receives actual notice of this Order and holds, controls, or maintains custody of any account or asset owned by, held for the benefit of, or otherwise under the control of any Defendant or Relief Defendant, shall not, in active concert or participation with any Defendant or Relief Defendant:

- a. Permit Defendants or Relief Defendants, or other persons to withdraw, transfer, remove, dissipate, or otherwise dispose of Defendants' or Relief Defendants' funds, assets, or other property, except as directed by further order of the Court; and

- b. Permit Defendants or Relief Defendants or any other persons to access to any safe deposit box that is: (a) owned, controlled, managed or held by Defendants or Relief Defendants (as defined) either individually or jointly, or managed or held on behalf, or for the benefit, of Defendants or Relief Defendants; or (b) otherwise subject to access by Defendants or Relief Defendants.

20. Any financial or brokerage institution, business entity, or person that receives notice of this Order by personal service or otherwise shall not, in active concert or participation with any Defendant or Relief Defendant, directly or indirectly destroy, alter or dispose of, in any manner, any records relating to the business activities and business and personal finances of any Defendant or Relief Defendant.

21. Any financial or brokerage institution, business entity, or person that receives actual notice of this Order and 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 any Defendants or Relief Defendants, or has held, controlled, or maintained custody of any such account or asset of any Defendants or Relief Defendants at any time since January 1, 2014, shall not, in active concert or participation with Defendants or Relief Defendants, deny a request by the Commission to inspect all records pertaining to every account or asset owned, controlled, managed or held by Defendants or Relief Defendants, or managed or held on behalf, or for the benefit, of Defendants or Relief Defendants, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs. As an alternative to allowing inspection of records, a financial or

brokerage institution, business entity or other person may provide copies of records requested by the Commission.

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**IV. Persons Bound By this Order**

22. This Order is binding on any person who receives actual notice of this Order by personal service or otherwise and is acting in the capacity of an officer, agent, servant, employee, or attorney of the Defendants or Relief Defendants, or is in active concert or participation with the Defendants or Relief Defendants.

**V. Bond Not Required of Plaintiff**

23. As Plaintiff Commission has made a proper showing under Section 6c(b) of the Act, 7 U.S.C. § 13a-1(b) (2012), it is not required to post any bond in connection with this Order.

**VI. Service of Order**

24. Copies of this Order may be served by any means, including via email or facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any records or assets of any Defendant or Relief Defendant, or that may be subject to any provision of this Order.

**VII. Service on the Commission**

25. The Defendants and Relief Defendants shall comply with all electronic filing rules and requirements of the U.S. District Court for the District of Massachusetts and shall serve all pleadings, correspondence, notices required by this Order, and other materials on the Commission by delivering a copy to Traci L. Rodriguez, Chief Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581, by electronic filing, email, personal delivery or courier service (such as Federal Express or United Parcel Service) and not by regular mail due to potential delay resulting from



heightened security and decontamination procedures applicable to the Commission's regular mail.


**VIII. Further Proceedings**

26. Plaintiff's Motion for a Preliminary Injunction is set for hearing on the 25<sup>th</sup> day of Jan, 2018, at [insert time] 11:15 a.m., before the Honorable Zobel, Courtroom #12 at the United States Courthouse for the District of Massachusetts at 1 Courthouse Way, Boston, Massachusetts 02210. Should any party wish to file a memorandum of law or other papers concerning the issuance of a preliminary injunction against the Defendants or Relief Defendants such materials shall be filed, served and received by all parties at least two (2) days before the hearing ordered above.

**IX. Force and Effect**

27. This Order shall remain in full force and effect until [insert date no later than 14 days after entry of the order] unless extended further by order of this Court pursuant to Fed. R. Civ. P. 65(b)(2), and this Court retains jurisdiction of this matter for all purposes.

**IT SO ORDERED**, at Boston, Massachusetts, on this 15<sup>th</sup> day of January, 2018, at 3:45 p.m.

  
UNITED STATES DISTRICT JUDGE