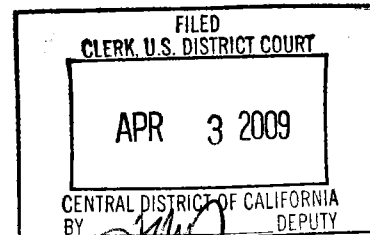


1 JOHN M. McCOY III, Cal. Bar No. 166244
E-mail: mccoymj@sec.gov
2 MARC J. BLAU, Cal. Bar No. 198162
E-mail: blaum@sec.gov
3 DAVID S. BROWN, Cal. Bar No. 134569
E-mail: browndav@sec.gov



4 Attorneys for Plaintiff
5 Securities and Exchange Commission
6 Rosalind R. Tyson, Regional Director
7 Michele Wein Layne, Associate Regional Director
8 5670 Wilshire Boulevard, 11th Floor
9 Los Angeles, California 90036-3648
10 Telephone: (323) 965-3998
11 Facsimile: (323) 965-3908

LOGGED

FILED
APR -3 AM 10:30
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 SECURITIES AND EXCHANGE
15 COMMISSION,

16 Plaintiff,

17 vs.

18 FINBAR SECURITIES CORP., and
19 ROBERT TRINGHAM,

20 Defendants.

Case No.

CV09-2325 ODW V/BK

~~PROPOSED~~ AMENDED-

21 **TEMPORARY**
22 **RESTRAINING ORDER AND**
23 **ORDERS: (1) FREEZING ASSETS, (2)**
24 **APPOINTING A TEMPORARY**
25 **RECEIVER, (3) PROHIBITING THE**
26 **DESTRUCTION OF DOCUMENTS, (4)**
27 **GRANTING EXPEDITED**
28 **DISCOVERY, AND (5) REQUIRING**
ACCOUNTINGS; AND ORDER TO
SHOW CAUSE RE PRELIMINARY
INJUNCTION AND APPOINTMENT
OF A PERMANENT RECEIVER

1 This matter came to be heard upon the *Ex Parte* Application of Plaintiff
2 Securities and Exchange Commission (“Commission”) for a Temporary
3 Restraining Order And Orders: (1) Freezing Assets, (2) Appointing A Temporary
4 Receiver, (3) Prohibiting The Destruction Of Documents, (4) Granting Expedited
5 Discovery, And (5) Requiring Accountings; And Order To Show Cause Re
6 Preliminary Injunction And Appointment Of A Permanent Receiver (the
7 “Application”).

8 The Court, having considered the Commission’s Complaint, its Application,
9 the Memorandum of Points and Authorities, and the Declarations and other
10 documents filed in support of the Application, and all other evidence and argument
11 presented regarding the Application, finds that:

12 A. This Court has jurisdiction over the parties to, and the subject matter
13 of, this action.

14 B. Good cause exists to believe that defendants Finbar Securities Corp.
15 (“Finbar”) and Robert Tringham (“Tringham”), and each of them, have engaged in,
16 are engaging in, and are about to engage in transactions, acts, practices and courses
17 of business that constitute violations of Section 17(a) of the Securities Act of 1933
18 (“Securities Act”), 15 U.S.C. § 77q(a), Sections 10(b) and 15(a) of the Securities
19 Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78j(b) and 78o(a), and
20 Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5, and Sections 206(1) and (2) of the
21 Investment Advisers Act of 1940 (“Advisers Act”), 15 U.S.C. §§ 80b-6(1) and (2).

22 C. The Commission has demonstrated a probability of success on the
23 merits in this action and the possibility of dissipation of assets.

24 D. Good cause exists to believe that defendants will continue to engage
25 in such violations to the immediate and irreparable loss and damage to investors
26 and to the general public unless they are restrained and enjoined.

1 E. It is appropriate and the interests of justice require that the
2 Commission's Application be granted without notice to the defendants as the
3 Commission has set forth in its Application, pursuant to Local Rule 7-19.2, the
4 reasons supporting its claim that notice should not be required, and it appears from
5 specific facts shown by the Declarations filed by the Commission that immediate
6 and irreparable injury, loss, or damage will result if notice to the defendants is
7 given.

8 **I.**

9 IT IS HEREBY ORDERED that the Commission's Application for a
10 Temporary Restraining Order and Orders: (1) Freezing Assets, (2) Appointing A
11 Temporary Receiver, (3) Prohibiting The Destruction Of Documents, (4) Granting
12 Expedited Discovery, And (5) Requiring Accountings; And Order To Show Cause
13 Re Preliminary Injunction And Appointment Of A Permanent Receiver is
14 GRANTED.

15 **II.**

16 IT IS FURTHER ORDERED that defendants Finbar and Tringham, and
17 their officers, agents, servants, employees, attorneys, subsidiaries and affiliates,
18 and those persons in active concert or participation with any of them, who receive
19 actual notice of this Order, by personal service or otherwise, and each of them, be
20 and hereby are temporarily restrained and enjoined from, directly or indirectly, in
21 the offer or sale of any securities, by the use of any means or instruments of
22 transportation or communication in interstate commerce or by the use of the mails:

- 23 A. employing any device, scheme or artifice to defraud;
24 B. obtaining money or property by means of any untrue statement of a
25 material fact or any omission to state a material fact necessary in order
26 to make the statements made, in light of the circumstances under
27 which they were made, not misleading; or
28

1 C. engaging in any transaction, practice, or course of business which
2 operates or would operate as a fraud or deceit upon the purchaser;
3 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

4 **III.**

5 IT IS FURTHER ORDERED that defendants Finbar and Tringham, and
6 their officers, agents, servants, employees, attorneys, subsidiaries and affiliates,
7 and those persons in active concert or participation with any of them, who receive
8 actual notice of this Order, by personal service or otherwise, and each of them, be
9 and hereby are temporarily restrained and enjoined from, directly or indirectly, in
10 connection with the purchase or sale of any security, by the use of any means or
11 instrumentality of interstate commerce, or of the mails, or of any facility of any
12 national securities exchange:

13 A. employing any device, scheme or artifice to defraud;

14 B. making any untrue statement of a material fact or omitting to state a
15 material fact necessary in order to make the statements made, in the
16 light of the circumstances under which they were made, not
17 misleading; or

18 C. engaging in any act, practice, or course of business which operates or
19 would operate as a fraud or deceit upon any person;

20 in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule
21 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

22 **IV.**

23 IT IS FURTHER ORDERED that defendants Finbar and Tringham, and
24 their officers, agents, servants, employees, attorneys, subsidiaries and affiliates,
25 and those persons in active concert or participation with any of them, who receive
26 actual notice of this Order, by personal service or otherwise, and each of them, be
27
28

1 and hereby are temporarily restrained and enjoined from, directly or indirectly, by
2 the use of the mails or means and instrumentalities of interstate commerce:

- 3 a. employing devices, schemes and artifices to defraud clients or
4 prospective clients; or
- 5 b. engaging in transactions, practices, and courses of business
6 which operate as a fraud or deceit upon clients or prospective
7 clients

8 in violation of Sections 206(1) and (2) of the Advisers Act, 15 U.S.C. §§ 80b-6(1)
9 and (2).

10 **V.**

11 IT IS FURTHER ORDERED that defendants Finbar and Tringham, and
12 their officers, agents, servants, employees, attorneys, subsidiaries and affiliates,
13 and those persons in active concert or participation with any of them, who receive
14 actual notice of this Order, by personal service or otherwise, and each of them, be
15 and hereby are temporarily restrained and enjoined from, directly or indirectly, by
16 use of the mails or means or instrumentalities of interstate commerce effecting
17 transactions in, inducing or attempting to induce, the purchase or sale of securities,
18 without being registered as a broker or dealer in accordance with Section 15(a) of
19 the Exchange Act, 15 U.S.C. § 78o(a).

20 **VI.**

21 IT IS FURTHER ORDERED that, except as otherwise ordered by this
22 Court, defendants Finbar and Tringham, and their officers, agents, servants,
23 employees, attorneys, subsidiaries and affiliates, and those persons in active
24 concert or participation with any of them, who receive actual notice of this Order,
25 by personal service or otherwise, and each of them, be and hereby are temporarily
26 restrained and enjoined from, directly or indirectly:

- A. transferring, assigning, selling, hypothecating, changing, wasting, dissipating, converting, concealing, encumbering, or otherwise disposing of, in any manner, any funds, assets, securities, claims, or other real or personal property, wherever located, of defendants Finbar and Tringham, or their subsidiaries or affiliates, owned by, controlled by, managed by or in the possession or custody of any of them;
- B. transferring, assigning, selling, hypothecating, encumbering, or otherwise disposing of any securities, including, but not limited to, any investment contracts or other securities of defendant Finbar, or any of its subsidiaries or affiliates.

VII.

IT IS FURTHER ORDERED that, except as otherwise ordered by this Court, an immediate freeze shall be placed on all monies and assets (with an allowance for necessary and reasonable living expenses to be granted only upon good cause shown by application to the Court with notice to and an opportunity for the Commission to be heard) in all accounts at any bank, financial institution or brokerage firm (including any futures commission merchant), all certificates of deposit, and other funds or assets, held in the name of, for the benefit of, or over which account authority is held by Finbar and/or Tringham, or any trust, partnership, joint venture, person or entity affiliated with any of them, including, but not limited to, the accounts set forth below:

<u>Bank Name</u>	<u>Account Name</u>	<u>Account No.</u>
Banc of America	Robert Tringham	W78-278440
Investment Services, Inc.		

1	Banc of America	Finbar Holdings, Inc.	W78-278483
2	Investment Services, Inc.		
3	Bank of America	Robert Tringham	1173005052
4	Bank of America	Finbar Asia Philippines, Inc.	1173441218
5	Bank of America	Finbar Securities Corp.	1173741283
6	Bank of America	Robert Tringham	1173867315
7	Citibank	Finbar Securities Corp.	40611172
8	Citibank	Robert Tringham	40019561873
9	Credit Suisse/UBS	Robert Tringham	unknown
10	JP Morgan Chase	Robert Tringham	unknown
11	Morgan Stanley	Finbar Securities Corp.	255050034
12	National Financial	Robert Tringham/First	M03-002704
13	Services	National Bancorp	
14	Penson Financial Services	Finbar Security Corp.	11264520
15	Union Bank of California	Finbar Securities Corp.	720112906
16	Union Bank of California	Finbar Asia Philippines, Inc.	5721026457
17	Union Bank of California	Finbar Asia Philippines, Inc.	5721026465
18	Union Bank of California	Swiss Global Connect USA,	5720003718
19		Inc.	
20	Union Bank of California	Swiss Global Connect USA,	5721025384
21		Inc.	
22	Wells Fargo Bank	Robert Tringham	937-2200981
23	Windham Securities	Swiss Global Connect USA	unknown

VIII.

IT IS FURTHER ORDERED that Robb Evans & Associates is appointed as temporary receiver of Finbar, and its subsidiaries and affiliates, with

1 full powers of an equity receiver, including, but not limited to, full power over all
2 funds, assets, collateral, premises (whether owned, leased, occupied, or otherwise
3 controlled), choses in action, books, records, papers and other property belonging
4 to, being managed by or in the possession of or control of Finbar, and its
5 subsidiaries and affiliates, and that such receiver is immediately authorized,
6 empowered and directed:

7 A. to have access to and to collect and take custody, control, possession,
8 and charge of all funds, assets, collateral, premises (whether owned,
9 leased, occupied, or otherwise controlled), choses in action, books,
10 records, papers and other real or personal property, wherever located,
11 of or managed by Finbar, and its subsidiaries and affiliates, with full
12 power to sue, foreclose, marshal, collect, receive, and take into
13 possession all such property (including access to and taking custody,
14 control, and possession of all such Finbar property, and that of its
15 subsidiaries and affiliates, at 100 N. Barranca Street, 8th Floor, West
16 Covina, California 91791);

17 B. to have control of, and to be added as the sole authorized signatory
18 for, all accounts of the entities in receivership, including all accounts
19 at any bank, title company, escrow agent, financial institution or
20 brokerage firm (including any futures commission merchant) which
21 has possession, custody or control of any assets or funds of Finbar,
22 and its subsidiaries and affiliates, or which maintains accounts over
23 which Finbar, and its subsidiaries and affiliates, and/or any of their
24 employees or agents have signatory authority;

25 C. to conduct such investigation and discovery as may be necessary to
26 locate and account for all of the assets of or managed by Finbar, and
27 its subsidiaries and affiliates, and to engage and employ attorneys,
28

1 accountants and other persons to assist in such investigation and
2 discovery;

3 D. to take such action as is necessary and appropriate to preserve and
4 take control of and to prevent the dissipation, concealment, or
5 disposition of any assets of or managed by Finbar, and its subsidiaries
6 and affiliates;

7 E. to make an accounting, as soon as practicable, to this Court, the
8 Commission, and any interested government agencies, of the assets
9 and financial condition of Finbar, and to file the accounting with the
10 Court and deliver copies thereof to all parties;

11 F. to make such payments and disbursements from the funds and assets
12 taken into custody, control, and possession or thereafter received by
13 him or her, and to incur, or authorize the making of, such agreements
14 as may be necessary and advisable in discharging his or her duties as
15 temporary receiver;

16 G. to employ attorneys, accountants, and others to investigate and, where
17 appropriate, to institute, pursue, and prosecute all claims and causes of
18 action of whatever kind and nature which may now or hereafter exist
19 as a result of the activities of present or past employees or agents of
20 Finbar, and its subsidiaries and affiliates;

21 H. to have access to and monitor all mail, electronic mail, and video
22 phone of the entities in receivership in order to review such mail,
23 electronic mail, and video phone which he or she deems relates to
24 their business and the discharging of his or her duties as temporary
25 receiver;

1 I. to operate and control the content of information posted on Gold-
2 Quest's Internet web sites, www.finbarsecurities.com, and
3 www.finbarasia.com; and

4 J. to exercise all of the lawful powers of Finbar and its officers,
5 directors, employees, representatives, or persons who exercise similar
6 powers and perform similar duties.

7 **IX.**

8 IT IS FURTHER ORDERED that defendants Finbar and Tringham, their
9 subsidiaries and affiliates, including all of the other entities in receivership, and
10 their officers, agents, servants, employees and attorneys, and any other persons
11 who are in custody, possession or control of any assets, collateral, books, records,
12 papers or other property of or managed by any of the entities in receivership, shall
13 forthwith give access to and control of such property to the temporary receiver.

14 **X.**

15 IT IS FURTHER ORDERED that no officer, agent, servant, employee, or
16 attorney of Finbar and/or Tringham shall take any action or purport to take any
17 action, in the name of or on behalf of Finbar without the written consent of the
18 temporary receiver or order of this Court.

19 **XI.**

20 IT IS FURTHER ORDERED that, except by leave of this Court, during the
21 pendency of this receivership, all clients, investors, trust beneficiaries, note
22 holders, creditors, claimants, lessors, and all other persons or entities seeking relief
23 of any kind, in law or in equity, from Finbar and Tringham, or their subsidiaries or
24 affiliates, and all persons acting on behalf of any such investor, trust beneficiary,
25 note holder, creditor, claimant, lessor, consultant group, or other person, including
26 sheriffs, marshals, servants, agents, employees, and attorneys, are hereby restrained
27 and enjoined from, directly or indirectly, with respect to these persons and entities:
28

- 1 A. commencing, prosecuting, continuing or enforcing any suit or
2 proceeding (other than the present action by the Commission) against
3 any of them;
- 4 B. using self-help or executing or issuing or causing the execution or
5 issuance of any court attachment, subpoena, replevin, execution or
6 other process for the purpose of impounding or taking possession of
7 or interfering with or creating or enforcing a lien upon any property or
8 property interests owned by or in the possession of Finbar; and
- 9 C. doing any act or thing whatsoever to interfere with taking control,
10 possession or management by the temporary receiver appointed
11 hereunder of the property and assets owned, controlled or managed by
12 or in the possession of Finbar, or in any way to interfere with or
13 harass the temporary receiver or his or her attorneys, accountants,
14 employees, or agents or to interfere in any manner with the discharge
15 of the temporary receiver’s duties and responsibilities hereunder.

16 **XII.**

17 IT IS FURTHER ORDERED that defendants Finbar and Tringham, and
18 their subsidiaries, affiliates, officers, agents, servants, employees, and attorneys,
19 shall cooperate with and assist the temporary receiver and shall take no action,
20 directly or indirectly, to hinder, obstruct, or otherwise interfere with the temporary
21 receiver or his or her attorneys, accountants, employees, or agents, in the conduct
22 of the temporary receiver’s duties or to interfere in any manner, directly or
23 indirectly, with the custody, possession, management, or control by the temporary
24 receiver of the funds, assets, collateral, premises, and choses in action described
25 above.

XIII.

1
2 IT IS FURTHER ORDERED that defendants Finbar and Tringham, and
3 their subsidiaries and affiliates, shall pay the costs, fees and expenses of the
4 temporary receiver incurred in connection with the performance of his or her duties
5 described in this Order, including the costs and expenses of those persons who may
6 be engaged or employed by the temporary receiver to assist him or her in carrying
7 out his or her duties and obligations. All applications for costs, fees, and expenses
8 for services rendered in connection with the receivership other than routine and
9 necessary business expenses in conducting the receivership, such as salaries, rent,
10 and any and all other reasonable operating expenses, shall be made by application
11 setting forth in reasonable detail the nature of the services and shall be heard by the
12 Court.

XIV.

13
14 IT IS FURTHER ORDERED that no bond shall be required in connection
15 with the appointment of the temporary receiver. Except for an act of gross
16 negligence, the temporary receiver shall not be liable for any loss or damage
17 incurred by any of the defendants, their officers, agents, servants, employees and
18 attorneys or any other person, by reason of any act performed or omitted to be
19 performed by the temporary receiver in connection with the discharge of his or her
20 duties and responsibilities.

XV.

21
22 IT IS FURTHER ORDERED that representatives of the Commission and
23 any other government agency, are authorized to have continuing access to inspect
24 or copy any or all of the corporate books and records and other documents of
25 Finbar and the other entities in receivership, and continuing access to inspect their
26 funds, property, assets and collateral, wherever located.
27
28

XVI.

1
2 IT IS FURTHER ORDERED that, except as otherwise ordered by this
3 Court, defendants Finbar and Tringham, and their officers, agents, servants,
4 employees, attorneys, subsidiaries and affiliates, including the other entities in
5 receivership, and those persons in active concert or participation with any of them,
6 who receive actual notice of this Order, by personal service or otherwise, and each
7 of them, be and hereby are temporarily restrained and enjoined from, directly or
8 indirectly: destroying, mutilating, concealing, transferring, altering, or otherwise
9 disposing of, in any manner, any documents, which includes all books, records,
10 computer programs, computer files, computer printouts, contracts, correspondence,
11 memoranda, brochures, or any other documents of any kind in their possession,
12 custody or control, however created, produced, or stored (manually, mechanically,
13 electronically, or otherwise), pertaining in any manner to defendants Finbar and
14 Tringham, and their subsidiaries and affiliates.

XVII.

15
16 IT IS FURTHER ORDERED that the Commission's application for
17 expedited discovery be and hereby is granted and that the Commission may take
18 depositions of defendants and non-parties upon oral examination subject to two
19 calendar days notice pursuant to Rules 30(a) and 45 of the Federal Rules of Civil
20 Procedure, that the Commission may take more than one deposition at the same
21 time, that depositions of the defendants may be taken on any day, including
22 Saturdays, Sundays, and holidays subject to two calendar days notice, including
23 notice given personally, by facsimile or by electronic mail, and the Commission
24 may take more than ten depositions.

XVIII.

25
26 IT IS FURTHER ORDERED that defendant Tringham shall, within five
27 days of the issuance of this Order, prepare and deliver to the Commission a
28

1 detailed and complete schedule of all of his personal assets, including all real and
2 personal property exceeding \$5,000 in value, and all bank, securities, futures and
3 other accounts identified by institution, branch address and account number. The
4 accounting shall include a description of the source(s) of all such assets. Such
5 accounting shall be filed with the Court and a copy shall be delivered to the
6 Commission's Los Angeles Regional Office. After completion of the accounting,
7 defendant Tringham shall produce to the Commission's Los Angeles Regional
8 Office, at a time agreeable to the Commission, all books, records and other
9 documents supporting or underlying his accounting.

10 **XIX.**

11 IT IS FURTHER ORDERED that defendants Finbar and Tringham, and
12 their officers, agents, servants, employees, attorneys, subsidiaries and affiliates,
13 including the other entities in receivership, shall, within 24 hours of the issuance of
14 this Order, cause to be prepared and delivered to the temporary receiver, a detailed
15 and complete schedule of all desk top computers, laptop computers and/or personal
16 digital assistants ("PDA") owned and/or used by them in connection with their
17 business. In the case of defendant Tringham, he shall, within 24 hours of the
18 issuance of this Order, prepare and deliver to the temporary receiver, a detailed and
19 complete schedule of all desk top computers, laptop computers and/or PDA's
20 owned, controlled or used by him for any purpose. The schedules required by this
21 section shall include at a minimum the make, model and description of each
22 computer and/or PDA, along with its location, the name of the person primarily
23 assigned to use the computer and/or PDA, all passwords necessary to access the
24 computer and/or PDA, and all passwords necessary to access and use the software
25 contained on the computer and/or PDA. The temporary receiver shall be
26 authorized to make an electronic, digital or hard copy of all of the data contained
27 on the computers and/or PDAs.

1 **XX.**

2 IT IS FURTHER ORDERED that defendants Finbar and Tringham, and
3 their officers, agents, servants, employees, attorneys, subsidiaries and affiliates
4 shall, within 24 hours of the issuance of this Order, cause to be prepared and
5 delivered to the temporary receiver a detailed and complete schedule of all
6 passwords, usernames, identification numbers and similar information for all web
7 sites, email accounts, and all accounts at any bank, financial institution or
8 brokerage firm operated by or to which Defendants Tringham and/or Finbar has
9 access.

10 **XXI.**

11 IT IS FURTHER ORDERED that this Temporary Restraining Order shall
12 expire at 2:00 o'clock p.m. on April 13, 2009, unless, for good
13 cause shown, it is extended or unless the parties against whom it is directed
14 consent that it may be extended for a longer period.

15 **XXII.**

16 IT IS FURTHER ORDERED that at 2:00 o'clock p.m. on
17 April 13, 2009, or as soon thereafter as the parties can be heard, the
18 defendants, and each of them, shall appear before the Honorable
19 Otis D. Wright II, Judge of the United States District Court for the
20 Central District of California, to show cause, if there be any, why a preliminary
21 injunction should not be granted and a permanent receiver not appointed in
22 accordance with the prayer for relief contained in this Complaint filed by the
23 Commission. Any declarations, affidavits, points and authorities, or other
24 submissions in support of, or in opposition to, the issuance of such an Order shall
25 be filed with the Court and delivered to the Commission's Los Angeles office and
26 the offices of the defendants and/or their attorneys no later than 11:59 o'clock
27 p.m. on April 10, 2009. Any reply papers shall be filed with the Court
28

1 and delivered to opposing counsel no later than 2:00 o'clock p .m. on
2 April 13, 2009. Service of all such papers shall be by electronic mail,
3 facsimile, or personal service.

4 **XXIII.**

5 IT IS FURTHER ORDERED that this Court shall retain jurisdiction over
6 this action for the purpose of implementing and carrying out the terms of all orders
7 and decrees which may be entered herein and to entertain any suitable application
8 or motion for additional relief within the jurisdiction of this Court.

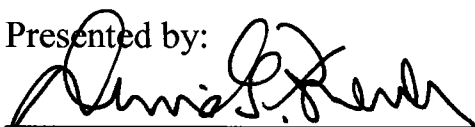
9 IT IS SO ORDERED.

10
11 DATED: April 3, 2009

12
13 TIME: 2:00 o'clock p .m.

14
15
16 
17 UNITED STATES DISTRICT JUDGE

18 Presented by:

19 
20 David S. Brown
21 John M. McCoy
22 Marc J. Blau
23 Attorneys for Plaintiff
24 Securities and Exchange Commission
25
26
27
28