

ROBB EVANS & ASSOCIATES, LLC
Receiver of
Forex Liquidity LLC

U.S. Commodity Futures Trading Commission v. Forex Liquidity LLC
CASE No. SACV-07-01437 CJC (RNBx)

Order Imposing Conditional Fine Upon Robert Gray

Filed July 28, 2009

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

**UNITED STATES COMMODITY
FUTURES TRADING COMMISSION**

Plaintiff,

vs.

FOREX LIQUIDITY LLC, et al.

Defendant.

Case No.: SACV 07-01437-CJC(ANx)

**ORDER IMPOSING CONDITIONAL
FINE UPON ROBERT GRAY**

The Court found Robert Gray in civil contempt on July 15, 2009. It imposed a July 28, 2009, 9 a.m. deadline on Mr. Gray to: (1) pay to the Receiver the sum of \$7,127,469 belonging to Forex Liquidity LLC (“Forex”) and (2) deliver to the Receiver all of the books and records of Pro Fi, a San Marino company owned and

1 controlled by Mr. Gray.¹ However, Mr. Gray did not comply with the Court's order.
2 He neither returned the Forex funds nor delivered Pro Fi's books and records.

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4 Mr. Gray appeared in Court at 9 a.m. on July 28, 2009. His attorney offered a
5 vague and brief explanation that the laws of San Marino and the logistics of moving
6 money and records across international borders have prevented Mr. Gray from
7 complying with the Court's order. Mr. Gray's counsel stated that the issues regarding
8 the Forex funds and Pro Fi's books and records are being handled by an attorney in
9 San Marino named Andrea Bacari.

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11 Mr. Gray's explanation is insufficient. Mr. Gray's counsel did not cite the
12 specific laws and regulations that are preventing Mr. Gray from complying with the
13 Court's order. Mr. Gray also has not provided the Court with declarations from any
14 of the parties involved in his alleged efforts to comply with the Court's order.
15 Specifically, Mr. Gray has not provided the Court with declarations from any Pro Fi
16 personnel, including Pro Fi president Antonella Cecere and the company's attorney,
17 Mr. Bacari. Even Mr. Gray himself has not provided a declaration detailing his
18 efforts to obey the Court's order. He apparently expects the Court to take him at his
19 counsel's word that he is working diligently to comply, frustrated only by the laws
20 and regulations of San Marino. Nonsense. Mr. Gray must comply with the Court's
21 order and the Court now must take the steps necessary to ensure that Mr. Gray does
22 so.

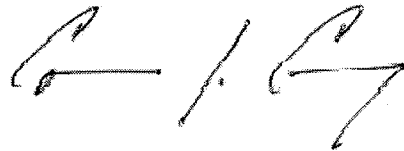
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24 “[C]ourts have inherent power to enforce compliance with their lawful orders
25 through civil contempt.” *Spallone v. United States*, 493 U.S. 265, 276 (1990). Civil
26 contempt is distinguished from criminal contempt by the purpose and the character of

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28 ¹ Mr. Gray has repeatedly represented that Pro Fi has custody and control of the Forex funds.

1 the sanctions issued by a court. Sanctions for criminal contempt are punitive in
2 nature, while “civil contempt sanctions, or those penalties designed to compel future
3 compliance with a court order, are considered to be coercive and avoidable through
4 obedience.” *International Union, United Mine Workers of America v. Bagwell*, 512
5 U.S. 821, 827 (1994). A court may make a finding of civil contempt and issue
6 sanctions in an ordinary civil hearing upon notice and an opportunity to be heard. *Id.*
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8 Mr. Gray has had nearly two weeks to comply with the Court’s order. He still
9 has not. Even worse, he has not explained why he has not done so. Accordingly, the
10 Court orders Mr. Gray to pay a conditional fine of \$10,000 a day until Mr. Gray
11 complies with the Court’s order to turn over to the Receiver the Forex funds and Pro
12 Fi’s books and records. Mr. Gray can purge himself of his contempt, and the
13 conditional fine will stop accumulating, if he complies with the Court’s order. Mr.
14 Gray is also ordered to appear in this Court on July 30, 2009 at 4 p.m. Hopefully Mr.
15 Gray will have complied with the Court’s orders by then.

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17 DATED: July 28, 2009



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19 CORMAC J. CARNEY
20 UNITED STATES DISTRICT JUDGE
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