

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**COMMODITY FUTURES
TRADING COMMISSION,**

Plaintiff,

v.

**RENE LARRALDE, JUAN PABLO
VALCARCE, BRIAN EARLY,
ALISHA ANN KINGREY, and
FUNDSZ.**

Defendants.

Case No:

**MOTION FOR LEAVE TO FILE CIVIL CASE
UNDER SEAL PURSUANT TO STATUTE**

The Commodity Futures Trading Commission (“Commission”), by and through its counsel, respectfully moves for leave to file a civil case under seal pursuant to 7 U.S.C. § 13a-1(a).

Along with this motion, the Commission is filing a complaint charging Rene Larralde, Juan Pablo Valcarce, Brian Early, Alisha Ann Kingrey, and Fundsz (“Defendants”) with fraud, and a an emergency motion for an *ex parte* statutory restraining order preventing Defendants from (1) withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property; (2) destroying, altering, mutilating, or disposing of any books, records, or other

documents; and (3) refusing to permit authorized representatives of the CFTC to inspect, when and as requested, any books, records, or other documents. The Commission also seeks the appointment of a temporary receiver to take possession of the assets of the Defendants and to secure books and records. Pursuant to 7 U.S.C. § 13a-1, the Commission may request and obtain such a restraining order *ex parte*. To allow for the possibility of such an *ex parte* restraining order, this lawsuit would necessarily need to be kept under seal until the Commission's motion for an *ex parte* restraining order is ruled upon, and if granted, served.

The Commission's motion and supporting papers contain allegations that (i) Defendants have engaged, are engaging, and are about to engage in violations of the Commodity Exchange Act ("Act"), 7 U.S.C. §§ 1-26, and CFTC Regulations ("Regulation"), 17 C.F.R. pts. 1-190 (2022), as alleged in the Complaint, and (ii) immediate and irreparable injury, loss and damage will result if written or oral notice is provided to the Defendants or their attorneys before the entry of a statutory restraining order freezing assets and preserving books and records. For the reasons stated in the Declaration of Douglas Snodgrass, the Commission believes that there is a substantial risk that Defendants will move assets beyond this Court's jurisdiction or otherwise dissipate them if written or oral notice is provided to Defendants or their attorneys before entry of an order freezing assets and service of the order on Defendants' financial institutions.

The Commission respectfully requests that this Motion, the attachments, and any other pleadings filed in this case be sealed for a short period of up to fourteen days to allow the Court to act on the Commission's application and, if approved, to allow counsel to the Commission to complete service of the Order freezing assets on Defendants and their financial institutions.

After the financial institutions confirm that the accounts have been secured, the Commission will move this Court to unseal this case and make the proceedings public. The Commission will as soon as practicable then serve Defendants with the Complaint, Motion for an *Ex Parte* Statutory Restraining Order and all related papers.

In support of this Motion, the Commission submits the following attachments:

1. Declaration of Douglas Snodgrass in Support of Motion to File Civil Case Under Seal.
2. Sealed Complaint;
3. Motion to Exceed Page Limit
4. Motion and Memorandum of Law in Support of *Ex Parte* Motion for a Statutory Restraining Order and a Preliminary Injunction.
5. Declaration of Matthew Edelstein in Support of Motion for *Ex Parte* Motion for a Statutory Restraining Order and a Preliminary Injunction, with attached Exhibits 1 through 24.
6. Proposed Statutory Restraining Order.
7. Motion for Expedited Discovery

8. Summonses to each Individual Defendant

Dated: July 31, 2023

Respectfully submitted,

COMMODITY FUTURES TRADING
COMMISSION

/s/ Douglas Snodgrass

Douglas Snodgrass
Elizabeth Streit
U.S. Commodity Futures Trading
Commission
Division of Enforcement
77 W Jackson Blvd, Suite 800
Chicago, Illinois 60604
(312) 596-0663 (Snodgrass)
(312) 596-0537 (Streit)
dsnodgrass@cftc.gov
estreit@cftc.gov