

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-81311-CIV-MIDDLEBROOKS/BRANNON

UNITED STATES COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

HUNTER WISE COMMODITIES, LLC, *et al.*,

Defendants.

**ORDER GRANTING DEFENDANTS' EMERGENCY MOTION FOR
CONTINUANCE OF TRIAL DATE**

THIS CAUSE comes before the Court upon Emergency Motion by Defendants Fred Jager and Harold Edward Martin, Jr. (collectively, "Defendants") for Continuance of Trial Date (DE 217) ("Motion") filed November 8, 2013. Plaintiff United States Commodity Futures Trading Commission ("Plaintiff") filed its Response in Opposition on November 15, 2013. (DE 223). Defendants filed their Reply on November 15, 2013. The Court has reviewed the record and is otherwise fully advised in the premises.

This matter was originally set for two-week trial period commencing August 26, 2013. (DE 19). The Court granted Mr. Martin's motion for a continuance because of his health condition, setting the trial for the two-week trial period commencing October 7, 2013. (DE 204). The Court granted another continuance after disqualifying Defendants' counsel. (DE 210). The trial is currently is set for the two-week trial period commencing December 2, 2013.

In the instant Motion, Defendants seek a sixty-day continuance of the trial date because of their recent retention of new counsel, the issues and record that Defendants' new counsel must review, and Mr. Martin's continued health concerns. Plaintiff contends that the issues in this matter are simpler than Defendants suggest, that Defendants' new counsel have worked on these issues previously, and that Mr. Martin's health will remain even if the trial is continued. It also noted that the victims of Defendants' alleged scheme will be prejudiced by another continuance.

Defendants reply that Plaintiff should not second-guess their counsel's analysis of the case, especially since Plaintiffs have been dealing with the case for almost a year. They note that while Defendants' new counsel have represented industry members in the past, that experience does not imply that counsel is familiar with the facts and applicable law in this case. Defendants argue that Plaintiff's argument regarding the prejudice to victims in this matter is premature and that the status quo will be preserved through the Special Monitor and the asset freeze if the Court granted their Motion.

After reviewing the Parties' submissions, I find that Defendants have shown good cause to continue the trial date in this matter. This matter has now been continued three times and I advise the Parties that no additional continuances will be granted, absent exigent circumstances.

Accordingly, it is hereby

ORDERED AND ADJUDGED that

1. Defendants' Motion (DE 217) is **GRANTED**;
2. The trial period in this matter, currently set for December 2, 2013 is **CONTINUED** to the two-week trial period commencing **February 24, 2014**.¹ The Status Conference/Calendar Call currently scheduled for November 27, 2013 is **RESCHEDULED** to **February 19, 2014**; and
3. The Pretrial Scheduling dates and deadlines in this matter are reset as follows:

January 24, 2014	Updated Joint Pretrial Stipulations shall be filed.
January 28, 2014	Exchange updated Exhibit List, Witness List, and Deposition Designations.
February 3, 2014	Provide opposing counsel with objections.
February 7, 2014	File final Exhibit List, Witness List, and Deposition Designations, with Objections.
February 10, 2014	Exchange Proposed Jury Instructions and Verdict form,

¹ Plaintiff requested that the trial be set for a date on or after February 17, 2014 should the Court grant the continuance.

where applicable.

February 11, 2014 **Motions in Limine and Responses must be filed. Before any motions are filed, the parties shall consult with each other to see whether the issues may be resolved without Court involvement.**

February 14, 2014 Joint Proposed Jury Instructions and Verdict form must be filed outlining: (1) the legal elements of Plaintiff's claims, including damages, and (2) the legal elements of the defenses raised, consistent with and citing to the Eleventh Circuit Pattern Jury Instructions, or Proposed findings of fact and conclusions of law, where applicable.

DONE AND ORDERED in Chambers, at West Palm Beach, Florida, this 19th day of November, 2013.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT COURT

Copies to: Counsel of Record
 Melanie E. Damian, Special Monitor and Corporate Manager
 John King, *pro se Defendant*
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