

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

<hr/>	§	
SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
BRIAN A. BJORK;	§	
ESTATE OF JOEL DAVID SALINAS;	§	
J. DAVID GROUP OF COMPANIES, INC.	§	
J. DAVID FINANCIAL GROUP, L.P.;	§	
SELECT ASSET MANAGEMENT, LLC;	§	§ Civil Action No.: 11-cv-2830
SELECT CAPITAL MANAGEMENT, LLC	§	§ ECF
SELECT ASSET FUND I, LLC; and	§	
SELECT ASSET PRIME INDEX FUND, LLC,	§	
	§	
Defendants.	§	
	§	
<hr/>	§	

**UNOPPOSED MOTION TO ENTER AGREED ORDER OF PRELIMINARY
INJUNCTION AND OTHER EQUITABLE RELIEF AS TO
DEFENDANT BRIAN A. BJORK**

Plaintiff Securities and Exchange Commission (“Commission”) files this *Unopposed Motion to Enter Agreed Order of Preliminary Injunction and Other Equitable Relief* and would respectfully show the Court as follows:

1. Counsel for the Commission and Defendant Brian A. Bjork (“Defendant” or “Bjork”) have engaged in discussions resulting in the accompanying Agreed Order of Preliminary Injunction and Other Equitable Relief (“Order”) that, among other things, restrains and enjoins Defendant from violations of Section 17(a) of the Securities Act of 1933 [15 U.S.C. §77q(a)], Section 10(b) of the Securities Exchange Act of 1934 [15 U.S.C. § 78j(b)] and Commission Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Sections 206(1) and 206(2) of the Investment Advisers [15 U.S.C. § 80b-6(1) and (2)].

2. Entry of the Order will resolve the Commission's motion for preliminary injunction against Bjork (Doc. 2) now pending before the Court. In addition to imposing a preliminary injunction, the Order modifies the Court's Asset-Freeze Order (Doc. 12) as to Bjork, allowing him to keep assets valued at up to \$10,000 to cover reasonable and ordinary household and living expenses. It further allows Bjork to open one new bank account and requires Bjork to send the Receiver a copy of the bank account statements each month.

Respectfully submitted,

DATED: August 5, 2011

s/Timothy S. McCole
TIMOTHY S. McCOLE
Mississippi Bar No. 10628
SDTX Bar No. 899792
United States Securities and
Exchange Commission
Fort Worth Regional Office
801 Cherry Street, Suite 1900
Fort Worth, Texas 76102
(817) 978-6453
(817) 978-4927 (facsimile)
Counsel for Plaintiff

CERTIFICATE OF CONFERENCE

I certify that, on August 4-5, 2011, I conferred with attorney Matt Hennessy, counsel for Defendant Bjork, and with attorney Steven A. Harr, court-appointed receiver for Defendant Bjork; Defendant J. David Group of Companies, Inc.; Defendant J. David Financial Group LP; Defendant Select Asset Management, LLC; Defendant Select Capital Management, LLC; Defendant Select Asset Fund I, LLC; Defendant Select Asset Prime Index Fund, LLC; Defendant Estate of Joel David Salinas about this motion. They do not oppose the motion.

s/Timothy S. McCole
TIMOTHY S. McCOLE

CERTIFICATE OF SERVICE

I certify that I have sent a copy of the above motion and the proposed order by email to Defendant Bjork's counsel and to Steven A. Harr, court-appointed receiver for Defendant Bjork; Defendant J. David Group of Companies, Inc.; Defendant J. David Financial Group LP; Defendant Select Asset Management, LLC; Defendant Select Capital Management, LLC; Defendant Select Asset Fund I, LLC; Defendant Select Asset Prime Index Fund, LLC; Defendant Estate of Joel David Salinas.

s/Timothy S. McCole
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**AGREED ORDER OF PRELIMINARY INJUNCTION AND
OTHER EQUITABLE RELIEF AS TO DEFENDANT BRIAN A. BJORK**

This matter came on before me, the undersigned United States District Judge, on the unopposed motion of Plaintiff Securities and Exchange Commission (“Commission”) for issuance of a preliminary injunction and other equitable relief against Brian A. Bjork (“Defendant”). Defendant has acknowledged service of the *Summons* and *Complaint* in this case; has agreed for purposes of this action only to the entry of this *Agreed Order of Preliminary Injunction and Other Equitable Relief* (“*Order*”), without admitting or denying the allegations contained in the *Complaint*; has agreed that this Court has jurisdiction over him and over subject matter of this action; and has agreed to waive a hearing and the entry of findings of fact and conclusions of law. Based on the pleadings and documents filed in this case and the agreement of the parties, **IT IS THEREFORE ORDERED:**

I.

Defendant Bjork and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

II.

Defendant Bjork and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from aiding and abetting violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] by knowingly providing substantial assistance to any person who, in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) employs any device, scheme, or artifice to defraud;

- (b) obtains money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) engages in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

Defendant Bjork and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IV.

Defendant Bjork and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are restrained and enjoined from aiding and abetting violations of Section 10(b) of the

Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] by knowingly providing substantial assistance to any person who, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) employs any device, scheme, or artifice to defraud;
- (b) makes any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

V.

Defendant Bjork and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are restrained and enjoined from, directly or indirectly, controlling any person who violates Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

unless Defendant acts in good faith and does not directly or indirectly induce the act or acts constituting the violation.

VI.

Defendant Bjork and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are restrained and enjoined from and violating Sections 206(1) and 206(2) of the Investment Advisers [15 U.S.C. § 80b-6(1) and (2)] by using the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (1) to employ any device, scheme, or artifice to defraud any client or prospective client;
or
(2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

VII.

Defendant Bjork and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are restrained and enjoined from, directly or indirectly, making any payment or expenditure of funds, incurring any additional liability (including, specifically, by advances on any line of credit and any charges on any credit card), or effecting any sale, gift, hypothecation or other disposition of any asset, pending provision of sufficient proof to the Court of sufficient funds or assets to satisfy all claims alleged in the Commission's Complaint, or the posting of a bond or surety sufficient to assure payment of any such claim. Further, any bank, trust company, broker-dealer,

depository institution, entity, or individual holding accounts or assets for or on behalf of Defendant Bjork shall make no transactions in assets or securities (excepting liquidating necessary as to wasting assets) and no disbursement of assets or securities (including extensions of credit, or advances on existing lines of credit), including the honor of any negotiable instrument (including, specifically, any check, draft, or cashier's check) purchased by or for Defendant Bjork, unless otherwise ordered by this Court.

VIII.

The Commission may cause a copy of this Order to be served on any bank, trust company, broker-dealer, depository institution, entity, or individual either by United States mail, email, or facsimile as if such service were personal service, to restrain and enjoin any such institution, entity, or individual from disbursing assets, directly or indirectly, to or on behalf of Defendant Bjork, or any companies or persons or entities under his control.

IX.

Defendant Bjork and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are restrained and enjoined from destroying, removing, mutilating, altering, concealing or disposing of, in any manner, any of their books and records or any documents relating in any manner to the matters set forth in the Commission's Complaint, or the books and records of any entities under their control, unless otherwise ordered by this Court.

X.

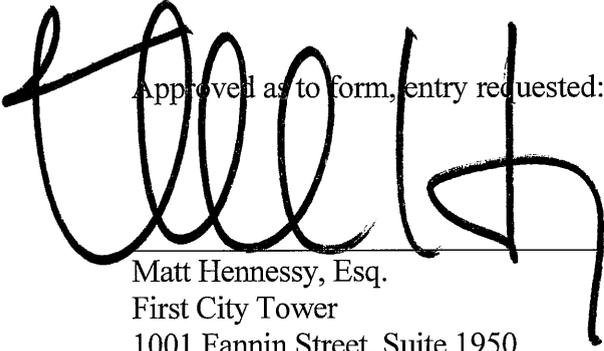
Notwithstanding this Order or the previously issued Asset Freeze and Receivership Orders (Docs. 11 and 12), Defendant Bjork is permitted to open one bank account for the limited purpose of managing his reasonable and ordinary household and living expenses. This new bank account

will not be subject to the Asset Freeze and Receivership Orders (Docs. 11 and 12). With the exception of an amount not to exceed \$10,000.00, Bjork is not permitted to deposit into the new account money or assets derived from funds, accounts, or assets he owned, possessed, or controlled before the date of this order. Bjork is permitted to deposit into the new account funds derived from employment not violative of this Order and from sources not subject to the Asset Freeze and Receivership Orders (Docs. 11 and 12). If Bjork comes into money or other assets beyond an amount necessary to pay his reasonable household living expenses—such as by gift, inheritance, bonus, or other windfall—then Bjork shall immediately notify the receiver and turn over such excess funds to the Receiver. The Receiver shall hold such funds until further order of the Court. Until otherwise ordered by this Court, Bjork shall email a copy of the new bank account’s monthly account statements, when issued, to the Steven A. Harr, Receiver.

Dated: _____ 2011

UNITED STATES DISTRICT JUDGE

Approved as to form, entry requested:

A handwritten signature in black ink, appearing to read 'Matt Hennessy', written over a horizontal line.

Matt Hennessy, Esq.
First City Tower
1001 Fannin Street, Suite 1950
Houston, Texas 77002
Counsel for Defendant Brian A. Bjork