

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

COMMODITY FUTURES TRADING)	
COMMISSION)	
Plaintiff,)	
)	Case No. 11-cv-10949
v.)	Hon. Mark A. Goldsmith
)	
ALAN JAMES WATSON, MICHAEL POTTS,)	
and CASH FLOW FINANCIAL, LLC,)	
)	
Defendants,)	
And)	
)	
THE JEDBURGH GROUP,)	
)	
Relief Defendant.)	
)	

**ORDER RATIFYING APPROVED INVESTOR CLAIMANTS LIST AND
AUTHORIZING DISTRIBUTION OF RECEIVERSHIP ASSETS**

Phillip S. Stenger, in his capacity as Receiver, having filed his *Motion and Memorandum for Order Ratifying Approved Investor Claimants List and Authorizing Distribution of Receivership Assets* (“Distribution Motion”),¹ moving this Court to approve a distribution (Dkt. 160, 161), and the Court being otherwise fully advised in the premises,

IT IS ORDERED AND ADJUDGED as follows:

¹ All capitalized terms shall have the definitions set forth in the Distribution Motion.

1. The Approved Investor Claimants List, attached as **Exhibit B** to the Distribution Memorandum, and the actions of the Receiver in compiling the Approved Investor Claimants List, are ratified, and the determinations of Adjusted Net Investor Claim (“ANIC”) and Distribution Amount for each Approved Claimant listed on Ex. B constitute final and binding determinations of ANIC and Distribution Amount for each Approved Claimant, and the Approved Claimants, and each of them individually, are barred from asserting any claim against the Receiver (either personally or in his representative capacity) or his employees, agents, attorneys or accountants, or the Receivership estate, in excess thereof;

2. The Receiver is authorized to distribute a Distribution Fund in the amount of Six Million Five Hundred Thousand Dollars (USD \$6,500,000) from the Receivership estate to the Approved Claimants listed on Ex. B in the ratio of their ANICs as listed on Ex. B;

3. The Receiver’s transfer of the estate’s assets to Fifth Third Bank in preparation for the distribution is ratified, and the Receiver is authorized to transfer the Distribution Fund of USD \$6,500,000 from CFF’s Operating Account xxxx2620 at Fifth Third Bank to CFF’s Distribution Account xxxx2638 at Fifth Third Bank for distribution to the Approved Claimants in accordance with the ANICs set forth in Ex. B;

4. The procedures the Receiver used in calculating ANICs, including but not limited to combining the claims of Co-Investor Claimants who purchased investments jointly, and the netting of positive and negative claims of Investor Claimants, were fair and equitable; the claims administration process conducted by the Receiver complied with all requirements of the Claims Procedure Adoption Order and the Investor Claims Procedure; and the procedures used by the Receiver as set forth in the Distribution Memorandum and in the Claims Procedure Adoption Order and Investor Claims Procedure to provide notice to Investor Claimants of their ANICs, including posting on the Receiver's CFF Website and publication in *USA Today*, were fair and equitable and provided adequate due process to Investor Claimants;

5. All claims from individuals and/or entities not specifically listed as Approved Claimants on Ex. B, and all claims of the Denied Claimants listed on **Exhibit C** to the Distribution Memorandum, are hereby forever barred and may not be asserted against the Receiver (either personally or in his representative capacity), or his employees, agents, attorneys and accountants, or the Receivership estate;

6. After entry of this Order ("Distribution Approval Order"), the Receiver shall make the required distributions from the Distribution Fund to each Approved Claimant listed on Ex. B of their Distribution Amount (as set forth in

Column E of Ex. B); and further, (i) the distribution shall be mailed by *United States First Class Mail* to the last known address of each Approved Claimant contained in the Receiver's records; (ii) the burden is on the Approved Claimant to notify the Receiver of the Approved Claimant's current address and other contact information, and to insure that the Approved Claimant's name and/or proper contact information are contained in the Receiver's records; (iii) the Receiver is under no duty or obligation to attempt to determine any Approved Claimant's current address and other contact information; and (iv) the Receiver shall implement the Positive Pay security procedures to ensure the proper negotiation of each distribution check;

7. Distribution checks which are returned or which have not been cashed within one hundred and twenty (120) calendar days from the date of mailing of such checks shall be void, the right to receive such payments shall terminate, subject only to the Receiver's sole discretion, and the amounts otherwise distributable to such Approved Claimants shall be returned to the Distribution Fund and disposed of according to the Court's further instructions; further, the Receiver shall in the mailing of the checks warn Approved Claimants of this potential loss of rights and the need to promptly cash their checks by including copies of an Investor Distribution Letter substantially in the form attached as **Exhibit F** to the Distribution Memorandum, which the Court hereby approves;

and, further, such Approved Claimants shall have no right to participate in future distributions, if any, shall be removed from the Approved Claimants list, and the Receiver shall have no further duty to locate these Approved Claimants or notify them of future hearings, motions, orders or developments in the case;

8. Due to the joint ownership of some claims, the Receiver, prior to mailing the distribution checks, will mail via *United States First Class Mail* to each Co-Investor Claimant a Letter to Co-Investor Claimant, substantially in the form attached as **Exhibit G** to the Distribution Memorandum, which the Court hereby approves, advising them as to which address the checks will be mailed, and further, a copy of the Investor Distribution Letter (Ex. F) which is to be mailed with the distribution checks, will also be mailed to each Co-Investor Claimant so that each will be informed as to when the checks are mailed; provided, however, that failure of the Receiver to mail the Letter to Co-Investor Claimants or the Investor Distribution Letter to Co-Investor Claimants shall not give rise to any claim against the Receiver (individually or in his representative capacity), or his employees, agents, attorneys and accountants, or the Receivership estate, as these letters are meant to provide courtesy notices and do not convey substantive rights to Approved Claimants or Co-Investor Claimants;

9. If a distribution check was made payable to a deceased claimant, or a deceased claimant's estate, and the representatives and/or family members of such

deceased claimant inform the Receiver that they are unable to cash or negotiate the check, the Receiver is authorized to receive and review Small Estate Affidavits, or other such similar small estate probate documents as authorized by state law, as provided to the Receiver by representatives of the deceased claimant's estate, in order to: (i) determine whether such documentation is sufficient to satisfy the decedent's state requirements for reissuing the decedent's distribution check to the Affiant (the designated surviving spouse, child or other heir as identified in the Small Estate Affidavit), without further probate or other court involvement; and (ii) determine whether such documentation is sufficient for the Receiver to send future court-approved distribution amounts (if any) to the identified Affiant, without further probate or other court involvement;

10. If the Receiver determines that the documentation is sufficient, the Receiver is authorized to reissue the decedent's distribution check in the name of the Affiant and mail the reissued distribution check to the Affiant via *United States First Class Mail* at the address provided by the Affiant, and (i) the Affiant has the burden to notify the Receiver of any updated contact information, and to insure that the Affiant's name and proper contact information are contained in the Receiver's records; (ii) the Receiver is under no duty or obligation to attempt to determine the current address and/or other contact information for any Affiant; and (iii) the Receiver shall implement the Positive Pay security procedures;

11. The Receiver shall only reissue a distribution check if, in addition to the requirements described above, the distribution check was made payable to a deceased claimant or a deceased claimant's estate, and the distribution check has not been cashed or negotiated;

12. Reissued distribution checks made payable to Affiants which are returned or which have not been cashed within sixty (60) days of mailing, shall be void, the right to receive such payments shall terminate, subject only to the sole discretion of the Receiver, and the amounts otherwise distributable to such Affiants shall be returned to the Distribution Fund and disposed of according to the Court's further instructions; further, in the mailing of reissued distribution checks to Affiants, the Receiver shall warn Affiants of this potential loss of rights and the need to promptly cash or negotiate their checks; if Affiants fail to cash the reissued distribution checks within sixty (60) days of mailing, such Affiants shall have no right to participate in future distributions (if any) and shall be removed from the Approved Claimants list, and the Receiver shall have no further duty to notify such Affiants of future hearings, motions, orders or developments in this case;

13. In order to effectuate this distribution, and subsequent distributions (if any), to the Approved Claimants, and, where applicable, to effectuate processing and distribution of reissued estate checks to Affiants in reliance on Small Estate Affidavits, as detailed in Paragraphs 9 through 12 above, the Court

hereby releases and discharges the Receiver (individually and in his representative capacity), and his employees, agents, attorneys and accountants, and all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing and distribution of checks and determination of claims filed pursuant to the Investor Claims Procedure, or involved in the review, verification, calculation, tabulation, or any other aspect of the processing and reissuance of estate checks to any Affiants based on their reliance on the Small Estate Affidavits, or otherwise involved in the estate's administration, from any act or omission arising out of such involvement;

14. The CFF Receivership estate shall indemnify, defend and hold harmless the Receiver (individually and in his representative capacity), and his employees, agents, attorneys and accountants, and all persons involved in the review, verification, calculation, tabulation, or any other aspect of processing and distribution of checks and determination of claims filed pursuant to the Investor Claims Procedure, or involved in the review, verification, calculation, tabulation, or any other aspect of processing and reissuance of estate checks to any Affiants based on their reliance on the Small Estate Affidavits, or otherwise involved in the estate's administration (collectively, the "Indemnified Parties"), from and against all actions pending or threatened, whether at law or in equity, in any forum, from liabilities, damages, losses, costs and expenses, including but not limited to,

reasonable attorneys' and other professionals' fees and costs, arising from conduct or omission of the Indemnified Parties in connection with this case;

15. The Distribution Motion and Memorandum, including all Exhibits, and this Distribution Approval Order, shall be available to the public at the Clerk of the Court for the United States District Court, Eastern District of Michigan (Southern Division) for inspection and copying at such Clerk's office during normal business hours by any interested party who wishes to examine the same; provided that the Court Clerk shall provide a copy of the Distribution Motion and this Distribution Approval Order to any person requesting same at such person's cost, subject to such Court Clerk's normal practices, procedures and requirements concerning same; and

16. The Receiver is further directed to post a copy of the Distribution Motion and Memorandum, including all Exhibits, and this Distribution Approval Order on the Receiver's website at www.cffreceiver.com.

SO ORDERED.

Dated: January 4, 2016
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 4, 2016.

s/Karri Sandusky
Case Manager