

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COMMODITY FUTURES TRADING)	
COMMISSION)	
Plaintiff,)	
)	11-cv-10949-LPZ-MKM
v.)	
)	Hon. Lawrence P. Zatkoff
ALAN JAMES WATSON, MICHAEL POTTS,)	
and CASH FLOW FINANCIAL, LLC,)	
)	
Defendants,)	
And)	
)	
THE JEDBURGH GROUP,)	
)	
Relief Defendant.)	
_____)	

MOTION TO ALLOW RETURN OF FUNDS TO TRADE, LLC RECEIVER

Now comes Phillip S. Stenger (“Receiver”), not individually, but solely as temporary Receiver for Cash Flow Financial, LLC (“CFF”), by and through his attorneys, Stenger & Stenger, P.C., and hereby moves this Court to enter an order allowing the return of funds to the Trade, LLC Receiver in the amount of \$123,880.07. In support of this Motion, the Receiver states as follows:

I. BACKGROUND

1. On March 11, 2011, by Order of this Court (“Appointing Order”) [Dkt. No. 5] Phillip S. Stenger was appointed temporary Receiver for assets of Defendants Alan James Watson, Michael Potts and Cash Flow Financial, LLC (“CFF”), and the assets of any affiliates or subsidiaries of any defendant, with the full powers of an equity receiver.

2. The Appointing Order directed the Receiver to do the following: assume full control of the corporate defendants and business entities owned by defendants; take exclusive custody, control and possession of all the funds, property and other assets in the possession of or under the control of the defendants; take all steps necessary to secure the residential and business premises of the defendants; preserve, hold and manage all receivership assets and perform all acts necessary to preserve the value of those assets; prevent the withdrawal or misapplication of funds entrusted to the defendants and otherwise protect the interests of customers, clients, pool participants or investors; manage and administer the assets of the defendants; collect all money owed to the defendants; initiate, defend, compromise, adjust, intervene in, dispose of, or become a party to any actions or proceedings in state, federal or foreign court necessary to preserve or increase the assets of the defendants; choose, engage, and employ the law firm of Stenger & Stenger, PC, other attorneys, accountants, and other retained personnel as necessary; issue subpoenas to compel testimony of persons or obtain documents and records pertaining to the receivership; open one or more bank accounts as designated depositories for funds of the defendants; and make payments and disbursements from the receivership estate necessary for carrying out the directions of, or exercising the authority granted by the Order of the court.

3. Pursuant to the terms of the Appointing Order, the Receiver has undertaken many activities since his appointment, including marshaling assets of approximately \$4.8 million.

4. The CFF Operating Agreement stated that the CFF pool participant funds would be traded using a trading program selected by Watson and approved by a vote of two-thirds of the members; however no such approval process was ever implemented and Watson invested the money in many different, unapproved schemes, many of which turned out to be fraudulent

schemes in their own right, resulting in complete loss of the investment. The pool participants believed the funds would be invested with a Florida entity specializing in commodities trading, known as "Trade, LLC". However, of the approximately \$45 million that was raised by Watson and CFF, only \$8.1 million was actually invested in Trade, LLC for commodities trading. Trade, LLC itself also turned out to be a fraudulent scheme which did not return trading profits to CFF as promised and itself is subject to lawsuits by the Securities and Exchange Commission and the Commodity Futures Trading Commission and is currently in receivership in Florida¹ ("**Trade, LLC Receivership Court**").

5. The majority of investors who invested in Trade, LLC did so by transferring their investment to an investment club of which he or she was a member, after which the club transferred (or was supposed to transfer) the investor's investment to Trade, LLC. One of the main investment clubs who invested in Trade, LLC was CFF. The Receiver and Jeffrey Schneider, in his capacity as Trade, LLC Receiver ("**Trade, LLC Receiver**"), have been cooperating with each other from the outset of their respective appointments.

6. As part of the Court-approved distribution procedure in the Trade, LLC Receivership, the Trade Receivership Court authorized the Trade, LLC Receiver to make the distribution to CFF's investors by directly paying to the CFF Receiver any recovery that CFF as an investment club was entitled to under the Trade, LLC Receivership. The main reason for this was to ensure that there was no duplication of efforts between the two receiverships as the CFF Receiver will also be distributing other funds included in the CFF Receivership to the investors in CFF and, therefore, will be the sole disbursing agent for all CFF funds. (Note however, that

¹ *Securities and Exchange Commission vs. Trade-LLC, et al*, United States District Court, Southern District of Florida, Case No.: 10-CV-80737; *Commodity Futures Trading Commission vs. Philip W. Milton, et al*, United States District Court, Southern District of Florida, Case No.: 10-CV-80738.

any CFF investors that invested directly in Trade, LLC without going through CFF were included in the Trade, LLC Receivership as to their individual investments.)

7. The claim submitted by the CFF Receiver in the Trade, LLC Receivership was determined by subtracting distributions made to CFF by Trade, LLC from the total amount of money invested in Trade, LLC by CFF. The Trade, LLC Receiver and the CFF Receiver compared bank statements and agreed on CFF's claim amount in the Trade, LLC Receivership. The CFF Receiver then submitted a *net* claim of \$6,010,359.67, which represented the *net* CFF funds that were invested in Trade, LLC. Through the Trade, LLC investor claims procedure CFF Receiver then received two separate distribution checks from the Trade, LLC Receivership in the total amount of \$2,009,903.66.

8. Subsequently, after the distributions were made, the Trade, LLC Receiver discovered that Trade, LLC had paid funds to certain CFF investors based on investments those investors made in CFF (not to Trade). In other words, certain CFF investors invested money directly in CFF, and no money directly in Trade, however they received money directly back from Trade, LLC. So, although these CFF investors had no claim in the Trade, LLC Receivership since they did not invest in Trade, LLC, they did receive \$619,400.33 from Trade, LLC. (This was presumably done because CFF's principal, Watson, asked Trade, LLC's principals to repay these investors as part of their collective involvement in what was a massive conspiracy.) Based upon the Trade, LLC Receiver's analysis and representations to the Receiver, Trade, LLC paid \$619,400.33 directly to these CFF investors and had the Trade, LLC Receiver known about these payments before, he would have netted these payments against CFF's claim, thus reducing CFF's claim by \$619,400.33 (i.e., from \$6,010,359.67 to \$5,390,959.34.) (the "**Claim Reduction**")

9. The Trade, LLC Receiver has spoken on several occasions with the CFF Receiver concerning the Claim Reduction and has provided the Receiver documents to support the Trade, LLC Receiver's requested Claim Reduction and the documentation supports the requested Claim Reduction. The Trade, LLC Receiver and the CFF Receiver have agreed that the proper way to address this situation was for the Trade, LLC Receiver to file a motion with the Trade, LLC Receivership Court to approve the Claim Reduction and that, upon the Trade, LLC Receivership Court's approval, the CFF Receiver would seek approval from this Court to allow for the Claim Reduction and the return of a portion of the distribution made by the Trade, LLC receivership estate to the CFF receivership estate in connection with the Claim Reduction.

10. The Trade, LLC Receivership Court entered an Order dated April 3, 2013 granting the Trade, LLC Receiver's *Unopposed Motion to Modify Claim Amount of Federal Court Receiver for Claimant Cash Flow Financial and Return Agreed Amount of Funds (Exhibit A)*.

11. The Trade Receiver is seeking the return of \$123,880.07 of the total distribution of \$2,009,903.66 made by the Trade estate to the CFF estate. This figure is approximately 20% of the \$619,400.33 Claim Reduction. The Receiver believes this is fair and in the best interest of the CFF estate as the distribution rate for all claims made out of the Trade estate was 34%, so, in effect, the CFF estate will be able to retain 14% of the \$619,400.33 Claim Reduction. This represents an \$84,580 enhancement.

12. Based on the above, the Receiver respectfully requests that the Receiver be authorized to return the amount of \$123,880.07 to the Trade, LLC Receiver to reflect the reduction in CFF's claim in the Trade, LLC Receivership.

13. A copy of this Motion was provided to the Commodity Futures Trading Commission (the “**Commission**”) in advance of filing, and the Commission has advised the Receiver that it has no objection to the Motion.

WHEREFORE, the Receiver respectfully requests that this Court enter an Order allowing the Receiver to return \$123,880.07 to the Trade, LLC Receiver.

Respectfully submitted,

STENGER & STENGER, P.C.
Attorneys for the Receiver

Dated: June 3, 2013

By: /s/ Laura D. Duston
Laura D. Duston (P66541)

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CERTIFICATE OF SERVICE

Laura D. Duston, an attorney, hereby certifies that on June 3, 2013, she caused to be served a copy of the foregoing Motion to Allow Return of Funds to Trade, LLC Receiver and Exhibits thereto via electronic filing on the following ECF parties:

Allison Baker Shealy
U.S. Commodity Futures Trading Commission
Division of Enforcement
1155 21st Street, N.W.
Washington, D.C. 20581
ashealy@cftc.gov

Peter A. Caplan
United States Attorney's Office
211 W. Fort Street, Suite 2001
Detroit, MI 48226-3211
peter.caplan@usdoj.gov

Harry H. Wise, III
Attorney for The Jedburgh Group
250 West 57th Street, Suite 1316
New York, NY 10107
hwiselaw@aol.com

and caused to be served a copy of said Motion and Exhibits by e-mail and by First Class Mail to the following non-ECF parties:

Alan J. Watson
Inmate ID #79104-083
FCI Ashland
P.O. Box 6001
Ashland, KY 41105
Newemail4aj@gmail.com

Michael S. Potts
Pro Se Defendant
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Lancaster, PA 17601
Mspotts1@gmail.com
ms_potts@comcast.net

Dated: June 3, 2013

/s/ Laura D. Duston

Laura D. Duston (P66541)
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Commodity Futures Trading Commission v Watson, et al.
Case No.: 11-cv-10949

EXHIBIT A
to
MOTION TO ALLOW RETURN OF FUNDS TO TRADE, LLC RECEIVER

*Order Granting Trade, LLC Receiver's Unopposed Motion to Modify Claim Amount of
Federal Court Receiver for Claimant Cash Flow Financial and Return Agreed
Amount of Funds
(Entered April 3, 2013 in Case No. 10-CV-80737, USDC for SD of FL)*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 10-CV-80737-HURLEY/HOPKINS
(Consolidated with Case No. 10-CV-80738-HURLEY/HOPKINS for the Receivership)

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

TRADE-LLC, et al.,

Defendants,

v.

BD LLC, et al.,

Relief Defendants.

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

TRADE-LLC, et al.,

Defendants,

BD LLC, et al.,

Relief Defendants.

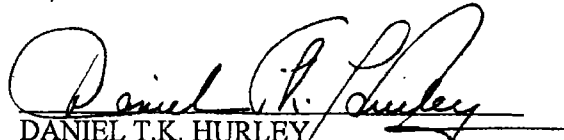
**ORDER GRANTING RECEIVER'S UNOPPOSED MOTION TO MODIFY
CLAIM AMOUNT OF FEDERAL COURT RECEIVER FOR CLAIMANT
CASH FLOW FINANCIAL AND RETURN AGREED AMOUNT OF FUNDS**

THIS CAUSE is before the Court upon the Receiver's Unopposed Motion to Modify
Claim Amount of Federal Court Receiver for Claimant Cash Flow Financial, LLC ("CFF") and

Return Agreed Amount of Funds [DE 185] (the "Motion"). Having carefully reviewed the Motion, it is hereby **ORDERED AND ADJUDGED**:

The Motion [DE 185] is **GRANTED**. CFF's prior approved net claim amount of \$6,010,359.67, as reflected in the previously-filed Claim Matrices [DE 136-1 and 173-1], is modified to reflect the return of \$123,880.07 from CFF, as a claimant in the receivership, to the Receiver upon approval of such modified claim and deduction amount by the Honorable Lawrence P. Zatkoff. The Receiver is authorized to accept the return of \$123,880.07 from the CFF Receiver, and the CFF Receiver shall pay this amount to the Receiver upon approval by the U.S. District Court for the Eastern District of Michigan, Southern Division, in the matter of *Commodity Futures Trading Commission v. Alan James Watson, et al.*, Case No.:11-cv-10949, for the release of such funds.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida, on this two day of April, 2013.


DANIEL T.K. HURLEY
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record,