

Hearing Date and Time: April 12, 2012 at 10:00 a.m. (Prevailing Eastern Time)

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In re:)	
)	
MF GLOBAL INC.,)	Case No. 11-02790 (MG)
)	
SIPA Debtor.)	SIPA Liquidation
)	

JOINDER OF STATUTORY CREDITORS’ COMMITTEE OF MF GLOBAL HOLDINGS LTD., ET AL. IN SUPPORT OF POSITION OF CHAPTER 11 TRUSTEE REGARDING MOTION OF JAMES W. GIDDENS, SIPA TRUSTEE FOR LIQUIDATION OF MF GLOBAL INC., TO APPROVE FIRST INTERIM DISTRIBUTION FOR ALLOWED COMMODITY FUTURES CLAIMS

The statutory creditors’ committee appointed in the chapter 11 cases of MF Global Holdings Ltd., et al. (Case no. 11-15059 (MG)) (the “Committee” of the “Chapter 11 Debtors,” respectively), submits this joinder in the position of Louis J. Freeh (the “Chapter 11 Trustee”) set forth in his *Statement* (the “Statement”) *Regarding Motion of James W. Giddens, SIPA Trustee for Liquidation of MF Global Inc., to Approve First Interim Distribution for Allowed Commodity Futures Claims* [Dkt. No. 1215] (the “Motion”). In support of this Joinder, the Committee states as follows:

JOINDER

1. The Chapter 11 Trustee does not object (nor does the Committee) to the relief sought by James W. Giddens (the “SIPA Trustee”), the SIPA Trustee for Liquidation of MF Global Inc. (“MFGI”), in the Motion — authority to make distributions on account of allowed commodity futures claims. Instead, the Chapter 11 Trustee faults the SIPA Trustee’s refusal to make public even the most basic information concerning the SIPA estate. For example, the SIPA Trustee has not made public, or updated any public information concerning, the amount of determined claims, customer property or, most importantly, his calculation of the so-called “missing customer property.” The Committee joins in the Chapter 11 Trustee’s frustration.

2. In December 2011, the Committee filed the *Limited Objection of Statutory Creditors’ Committee of MF Global Holdings Ltd., et al. to SIPA Trustee’s Expedited Motion to Approve Further Transfers and Distributions for MF Global Inc. United States Commodity Futures Customers* [Dkt. No. 604], and sought this Court to place restrictions on the SIPA Trustee’s ability to distribute funds because of the lack of transparency. Among other things, the Committee requested that the Committee and the Chapter 11 Trustee be granted access to the “books and records concerning [MFGI’s] customers’ accounts and property so that all interim distributions can be reviewed.” *Limited Objection*, at ¶ 2. To date, that simple request has not been granted.

3. Now, more than four months later, not only is there no clarity, the Committee and the Chapter 11 Trustee have been left in the dark to puzzle through the various bits and pieces of information the SIPA Trustee deigns to provide. In this regard, it should not be forgotten that in the days prior to the bankruptcy filing, more than \$875 million was borrowed

by Chapter 11 Debtors MF Global Finance USA Inc. and MF Global Holdings Ltd., only to be down streamed to MFGI, never to be seen since.

4. Moreover, the lack of clarity is only complicated by the mixed messages delivered by the SIPA Trustee. When these proceedings were commenced, parties in interest believed that there may be a shortfall in customer property of approximately \$600 million (as pointed out by the Chapter 11 Trustee, CME Group Inc. still believes that this is the correct amount, Statement, at ¶ 2). On November 21, 2011, the SIPA Trustee stated that the shortfall was \$1.2 billion, twice the amount previously reported. *Statement from the Office of the Trustee for the Liquidation of MF Global Inc.*, dated November 21, 2011. In the *Trustee's Preliminary Report on Status of his Investigation and Interim Status Report on Claims Process and Account Transfers* [Dkt. No. 896], dated February 6, 2012 ("February 6 Report") and attached hereto as **Exhibit A**, the SIPA Trustee appears to estimate the shortfall at approximately \$1 billion.¹ Only six days after filing the February 6 Report, the SIPA Trustee issued a press release stating that the shortfall is at least \$1.6 billion. *Update on Estimated Commodities Deficiency and Claims Process*, dated February 10, 2012. See copy of press release and related article attached as **Exhibit B** hereto.

5. The SIPA Trustee further obfuscated matters by attaching a chart to the February 6 Report purporting to demonstrate an overview of cash movement to and from MFGI during October 2011. See February 6 Report, Appendix A at p. 1. To paraphrase Sir Winston Churchill, the chart is "a riddle, wrapped in a mystery, inside an enigma." In other words, the chart is of absolutely no help to anyone trying to determine what happened to MFGI's and its customers' property.

¹ In the February 6 Report, the SIPA Trustee states that customer funds should have totaled \$5.5 billion, but on that date, only approximately \$4.5 billion was on deposit. See February 6 Report, Appendix A, at p. 4. The February 6 Report is attached hereto as **Exhibit A**.

6. The Committee has been working with the Chapter 11 Trustee to realize value for the Chapter 11 Debtors' creditors. The SIPA Trustee's assistance is crucial to this effort as evidenced by the chart annexed hereto as **Exhibit C**; the chart is also attached to the first status report of the Committee pursuant to Bankruptcy Code section 1102(b)(3) filed contemporaneously herewith in the chapter 11 cases.

7. For these reasons, as a condition of further distributions, the SIPA Trustee should be required to provide a clear calculation of his so-called "missing funds," and to identify the steps being taken to recover them. He should also be required to disclose whether he has identified clearing houses and counterparties who are or may be holding excess margin or other property of the SIPA estate, and whether he has demanded its turnover in each instance.

Dated: April 5, 2012
New York, New York

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By: /s/ Martin J. Bienenstock

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