

January 27, 2012

VIA ECF AND BY HAND

Honorable Martin Glenn
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, New York 10004

Re: *In re MF Global Inc.*, Case No. 11-2790 (MG) SIPA
Teleconference Hearing Set for January 30, 2012

Dear Judge Glenn:

We represent James W. Giddens (the “Trustee”), the SIPA Trustee for the liquidation of MF Global Inc. (“MFGI”). We write regarding your Order (ECF 867), issued January 23, 2012, regarding potential discrepancies in the amount or type of certificates of title and warehouse receipts (“Physical Assets” or “Physicals”) that were held by MFGI for its commodities customers at the time of its liquidation (the “January 23rd Order”).

Shortly after the Court issued the January 23rd Order, the Trustee posted the January 23rd Order to his website (www.mfglobaltrustee.com) and emailed a copy of the January 23rd Order to all customers for whom the Trustee is still holding Physicals for which we have email addresses. Separately, the Trustee’s counsel attempted to contact by phone or email to all customers for whom the Trustee is still holding Physicals who had not previously contacted the Trustee with instructions to liquidate or transfer their Physicals and alerted them to the January 23rd Order and pending liquidation date.

In response to the January 23rd Order, the Trustee received twelve responses from customers or their counsel (the “Customer Correspondence”). Ten of the twelve Customer Correspondence simply requested confirmation of the amount and type of Physicals held by the Trustee on their behalf. In each and every case, the number and type of Physicals held by the Trustee was consistent with the customer’s records and we confirmed as much to the customers or their representative.

The remaining two Customer Correspondence do not meet the criteria regarding the potential discrepancies in the amount or type of Physicals as contemplated by the January 23rd Order.

One customer, Ms. Daria Fane, who appeared at the January 19 status hearing, does not allege any discrepancy between the number and type of Physicals currently held by the Trustee for her account(s), but challenges the valuation of her total account value (and consequently, the amount needed for the required deposit) and requests the Court order that the Physicals not be liquidated until the parties can reach agreement. We submit that the methodology used to calculate the amount required to be deposit was uniform among all customers; that we provided Ms. Fane with the various amounts used in the calculations; and – as with all other similarly situated customers – Ms. Fane’s rights to dispute anything about the Trustee’s treatment of this property (including that the Trustee received an inappropriate deposit amount) is reserved for the expedited claims process.

Another customer, Mr. Paul Hamann, also does not dispute the number or type of Physicals held by the Trustee for his account, but contends that warehouse receipts should be treated as “securities,” presumably under SIPA. Upon consultation with Mr. Hamann, Mr. Hamann agrees that his issue is best suited to be raised after the determination of his customer claim.

We submit that issues raised by both Ms. Fane and Mr. Hamann would be more appropriately addressed through the claims process.

Additionally, there had been several pre-existing investigations into potential discrepancies between the number and type of Physicals held by the Trustee for MFGI’s former customers – most notably, for a Trace Schmeltz client who informed the Court of the then-unresolved issue at the January 19 status hearing. Each one of these pre-existing investigations centered around a customer’s pre-SIPA liquidation request to MFGI to have their Physicals transferred from MFGI. Upon investigation, the Trustee was able to confirm whether or not such requests had been processed by MFGI pre-SIPA liquidation and reflected on the books and records of MFGI. In all such cases, there is now no discrepancy between the number and type of Physicals currently being held by the Trustee (and in most cases, as was the situation with Mr. Schmeltz’s client, it is because the investigation revealed that MFGI’s books and records indicate that no such Physicals are still being held by the Trustee; we were then able to assist the customers with receiving their pre-SIPA liquidation property by informing the repositories accordingly).

The Trustee believes that these efforts have resolved all issues that the Court intended to address at the telephonic hearing currently scheduled for January 30, 2012 at 4:00p.m. EST pursuant to the January 23rd Order. However, counsel remains available at that or any other time should the Court wish to address these matters further.

Respectfully Submitted,

James B. Kobak, Jr.
James B. Kobak, Jr.

*w/ permission
Gabrielle Ambrose*