

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION**

**Case No. 12-81311-CIV-MIDDLEBROOKS/BRANNON**

UNITED STATES COMMODITY  
FUTURES TRADING COMMISSION,

Plaintiff,

vs.

HUNTER WISE COMMODITIES, LLC,  
*et al.*,

Defendants.

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**RECEIVER'S NINETEENTH STATUS REPORT**

Melanie E. Damian, Esq., the court-appointed Equity Receiver (the "Receiver") for Defendants Hunter Wise Commodities, LLC, Hunter Wise Services, LLC, Hunter Wise Credit, LLC and Hunter Wise Trading, LLC (collectively, the "Hunter Wise Entities") in the above-captioned enforcement action, submits her Nineteenth Status Report (the "Report") concerning the Receivership. This Report covers the period from July 1, 2018, through December 31, 2018 (the "Reporting Period"). This will be the Receiver's second to last Status Report for this Receivership, as the Receiver expects to complete the remaining work required under the Appointment Order during the next reporting period and will describe that work in her Final Report and Motion to Discharge Receiver.

**I. INTRODUCTION**

***A. Commencement of the Monitorship and Receivership***

On February 22, 2013, following a hearing on the CFTC's Motion for Preliminary Injunction and Appointment of a Receiver, the Court entered an Order Appointing Special

Corporate Monitor [ECF No. 77] (the “Appointment Order”), which, among other things, appointed Ms. Damian as Special Monitor and Corporate Manager of the Entity Defendants, set forth her powers and duties, and created the Estate. On February 25, 2013, the Court entered its Order on Plaintiff’s Motion for Preliminary Injunction [ECF No. 78] (the “Injunction Order”). On May 16, 2014, the Court entered its Order of Final Judgment, Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief against the Hunter Wise Entities, Ed Martin and Fred Jager [ECF No. 306] (the “Final Judgment”), which, among other things, appointed Ms. Damian as full Equity Receiver.

***B. Reporting on the Status of the Estate and the Activities of the Receiver***

Paragraph 24 of the Injunction Order requires the Receiver to “periodically ... as directed by the Court, file with the Court and serve on the parties a report summarizing efforts to marshal and collect assets, administer the [Estate], and otherwise perform the duties mandated by [the] Order.” Accordingly, the Receiver has filed eighteen reports prior to the instant Report. Those reports cover the activities undertaken by the Receiver during the period from February 22, 2013, through June 30, 2018. *See* Receiver’s Status Reports [ECF Nos. 102, 159, 213, 283, 302, 317, 331, 349, 377, 393, 396, 415, 430, 434, 440, 448, 452, and 468].

The Receiver continues to fulfill her duties under the Appointment Order, the Injunction Order, the Final Judgment, and the Restitution Orders entered against various dealers of Hunter Wise, and provides herein a detailed description of her efforts and accomplishments with respect to her duties as Special Monitor, Corporate Manager and Equity Receiver during the current Reporting Period.

## II. STATUS OF THE RECEIVERSHIP

### *A. Sale of Remaining Metals of the Estate*

During this Reporting Period (and the prior reporting period), the market prices of precious metals rose steadily justifying the continued liquidation of the Estate's metals. As such, the Receiver sold the remaining metals, taking advantage of the continued increase in market prices and minimizing the risk of loss to the Estate should the prices begin to drop. During the prior reporting period, the Receiver had directed Fidelity to sell all of the Estate's remaining silver and platinum and most of the Estate's remaining gold, for a total of \$732,646.56. Fidelity sold almost all of those metals and transferred \$682,413.46 to the Receiver during the prior Reporting Period. During this Reporting Period, the Receiver sold of the remaining gold and collected the proceeds totaling \$50,233.10.

### *B. Marketing for Sale the Estate's Shares in Closely Held Companies (Great Western Iron Ore and Firescope)*

As previously reported in great detail, the Jagers turned over funds and assets in partial satisfaction of Jager's restitution obligation under the Final Judgment pursuant to a certain Court-approved agreement (the "Jagers Agreement"). See ECF No. 350.

During the Reporting Period, the Receiver's counsel marketed for sale the shares in closely held companies that, during prior reporting periods, Mr. Jager and his entities and Mr. Martin and his family members had turned over to the Receiver. In particular, Mr. Jager and his entities had turned over to the Receiver 2,643,750 shares in Great Western Iron Ore ("Great Western") and the 9,546 shares in Firescope, and Mr. Martin and his family members had turned over to the Receiver 500,000 shares in Great Western.<sup>1</sup>

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<sup>1</sup> Therefore, in total, the Estate holds 3,143,750 shares in Great Western.

The sale of the Great Western shares is complicated by the fact that it is a private company and the iron ore industry has experienced a steady decline in prices over the past few years and extreme volatility during this and prior reporting periods. The value of the shares is tied to the iron ore industry so the Receiver will continue to monitor the market and share price while searching for a buyer for the Estate's shares. The Receiver has been unable to locate buyers for the Great Western and Firescope shares willing to pay meaningful amounts. Therefore, in an effort to maximize the value of those shares without expending additional Estate resources trying to sell them, the Receiver, in her Final Report and Motion to Discharge Receiver, will move this Court for authority to place the shares in a trust that will survive the closing of the Estate and the discharge of the Receiver, who will become the trustee with the authority to continue to market the shares for sale after the termination of the Receivership Estate. The Receiver will only be compensated for the time expended seeking to sell the shares from any sale proceeds collected. To the extent the sale proceeds exceed \$10,000 (after paying all expenses of the Estate), the Receiver, in the Final Report and Motion to Discharge Receiver, will further propose that the Court authorize her, without further order of the Court, to make a supplemental final distribution to allowed claimants. In the event the net sale proceeds are less than \$10,000, the Receiver will propose that such proceeds be turned over to the United States Treasury.

*C. Sale of the Judgments in Favor of the Estate*

During the prior reporting period, the Receiver settled all litigation of the fraudulent transfer claims against the Hunter Wise dealers and their principals, collected settlement amounts from certain dealers and principals, and continued collection efforts against other dealers and principals against which judgments were entered. During this Reporting Period, the Receiver negotiated and closed the sale of the seven remaining uncollected judgments in favor of the Estate (the "Judgments"). The Receiver's counsel solicited offers to purchase the Judgments, and all

rights thereunder of the Receiver as a judgment creditor, from companies that purchase such judgments and other remnant assets of receivership, bankruptcy and other estates. The highest and best offer that the Receiver received, following good faith, arm's length negotiations with three different companies, was an offer for \$15,000.00. The Receiver presented this offer to the Court, the Court approved it, and the Receiver sold the Judgments and collected the sale proceeds, which will be used to pay a portion of the Estate's administrative expenses through the conclusion of the receivership. *See* ECF Nos. 470 (Motion) and 473 (Order).

***D. Final Distribution to Claimants***

The Receiver is in the process of winding down the administration of this Estate. To that end, during this Reporting Period, the Receiver sought and obtained the Court's approval to make the final distribution to investors and creditors holding allowed claims. *See* ECF Nos. 471 (Motion) and 474 (Order). Accordingly, on or around October 8, 2018, the Receiver sent all allowed claimants their approved final distributions and communicated with claimants concerning issues arising therefrom. With this final distribution, the total distribution to investors and creditors of the Estate was \$14,008,475.61, amounting to a total return of 36.21% to investors. There are still many distribution checks that have not been cashed and/or that have been returned to the Receiver's office. Therefore, during the Reporting Period, the Receiver's counsel searched for updated addresses and worked with the heirs, personal representatives of the probate estates, and executors of the wills of deceased claimants to have the checks reissued in the names of, and sent to, the appropriate parties. The Receiver continues this process and expects that it will be completed and all final distribution checks will be cashed during the next and final reporting period. Once the last distribution check is cashed and the Receiver disburses the fees and costs incurred during this Reporting Period, upon Court approval of the forthcoming 19<sup>th</sup> Fee Application, the remaining cash on hand will be approximately \$180,000, which is more than the

Receiver had anticipated would remain in the Estate when she proposed the final distribution amount due to the increased value of gold at the time the Estate's remaining gold was sold and the sale of the Judgments. Thus, in her Final Report and Motion to Discharge Receiver, the Receiver will seek authority to make a supplemental final distribution of at least \$150,000 of the remaining cash on hand to allowed claimants, leaving the Estate with approximately \$30,000 to cover the fees and costs of the Receiver and her professionals for making the final distribution to all of the allowed claimants, preparing the Estate's tax returns for 2018 and 2019, winding down the Estate, and preparing the Final Report and Motion to Discharge Receiver.

### **III. END-CUSTOMERS / CLAIMANTS**

During the Reporting Period, the Receiver and her professionals received telephone calls, mail and e-mail correspondence from end-customers, seeking information concerning the status of the Receivership, including issues related to the amounts and projected date of the final distribution and the Receiver's continued asset recovery efforts. The Receiver and her professionals have made every effort to answer their questions and address their concerns and continue to refer them to the Receivership website located at [www.hunterwisemanager.com](http://www.hunterwisemanager.com), which is regularly updated with information regarding the distributions, important dates and deadlines, recent court filings of significance, including the Receiver's Status Reports and the Court's orders, questions frequently asked by end-customers, creditors and dealers, and the Receiver's answers thereto, and other updates regarding the Receiver's efforts to fulfill her duties under the Court's Orders.

The Receiver maintains a list of all known end-customers and creditors of the Hunter Wise Entities but has not attached that list to this Report to protect them from potential telemarketing frauds, to which some end-customers fell victim. To prevent further abuses, the Receiver has posted a warning regarding telemarketing fraud on the home page of the Receivership website.

#### **IV. ACCOUNTING OF RECEIVERSHIP FUNDS AND TOTAL VALUE OF ASSETS OF RECEIVERSHIP ESTATE**

As of December 31, 2018, the Receivership Estate held cash on hand in the amount of \$687,853.42 in the Estate's fiduciary accounts at City National Bank of Florida, of which \$223,661.05 will remain after all of the final distribution checks are cashed.<sup>2</sup> *See* Receivership Receipts and Disbursements attached hereto as **Exhibit "A"**, making up nearly all of the value of the assets of the Receivership Estate at this time.<sup>3</sup>

#### **V. ADMINISTRATIVE EXPENSES**

The administrative expenses of the Receivership Estate comprise the expenses that the Estate has incurred in connection with marshaling, maintaining, and preserving the Defendants' assets, including the fees and costs incurred by the Receiver and her professionals. All administrative expenses of the Estate are reflected in the Receivership Receipts and Disbursements. *See* Exhibit A.

#### **VI. CONCLUSION**

The Receiver will continue to work with her team of professionals to perform her duties as mandated by the Appointment Order, the Injunction Order, the Final Judgment against the Hunter Wise Entities and their principals, and the Judgments and Restitution Orders against the other Defendants. The Receiver will make every effort to wrap up this Receivership and make any

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<sup>2</sup> The Receiver initially opened a fiduciary account for the Estate at Gibraltar Private Bank & Trust, which was subsequently acquired by Iberia Bank. Thereafter, the Receiver opened a fiduciary account at City National Bank of Florida, which offered a higher interest rate, transferred the funds of the Estate to that account, and closed the account at Iberia Bank.

<sup>3</sup> This amount does not include any of the unliquidated securities that the Martin Family Trust and the Jagers transferred to the Receiver the value of which the Receiver is investigating in connection with her efforts to liquidate them. *See* Sections II.B., *supra*.

supplemental final distributions to customers holding allowed claims against the Estate, as the Court may authorize, during the next and final reporting period.

Respectfully submitted this 25<sup>th</sup> day of January 2019.

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/s/ *Kenneth Dante Murena*  
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FLORIDA BAR NO. 147486

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 25th day of January 2019, a true and correct copy of the Receiver's Nineteenth Status Report was served upon all counsel of record via CM/ECF, and via Email and/or U.S. MAIL to all parties listed on the attached Service List.

/s/ *Kenneth Dante Murena*  
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STANDARDIZED FUND ACCOUNTING REPORT  
CIVIL – HUNTER WISE FUND FOR CFTC v. HUNTER WISE COMMODITES LLC  
Reporting Period 7/1/18 to 12/31/18

		Detail	Subtotal	Grand Total
<b>Line 1</b>	Beginning Balance (As of 7/1/18):	\$ -	\$ -	<b>\$ 8,156,822.20</b>
	<b>Increases in Fund Balance:</b>			
<b>Line 2</b>	Business Income	\$ -	\$ -	\$ -
<b>Line 3</b>	Cash and Securities[1]	\$ 157,391.97	\$ 157,391.97	\$ 157,391.97
<b>Line 4</b>	Interest/Dividend Income [1]	\$ 12,090.02	\$ 12,090.02	\$ 12,090.02
<b>Line 5</b>	Business Asset Liquidation		\$ -	\$ -
<b>Line 6</b>	Personal Asset Liquidation	\$ -	\$ -	\$ -
<b>Line 7</b>	Third-Party Litigation Income	\$ -	\$ -	\$ -
<b>Line 8</b>	Miscellaneous - Other	\$ -	\$ -	\$ -
	<b>Total Funds Available</b>			<b>\$ 8,326,304.19</b>
	<b>(Lines 1-8):</b>			
	<b>Decreases in Fund Balance:</b>			
<b>Line 9</b>	Disbursements to Investors	\$ 8,040,009.94	\$ 8,040,009.94	\$ 8,040,009.94
<b>Line 10</b>	Disbursements for Business Operations [2]	\$ 1,242.15	\$ 1,242.15	\$ 1,242.15
Line 10a	Disbursements to Receiver or Other Professionals [2]	\$ 61,391.05	\$ 61,391.05	\$ 61,391.05
Line 10b	Business Asset Expenses		\$ -	
Line 10c	Personal Asset Expenses:	\$ -	\$ -	\$ -
Line 10d	Investment Expenses	\$ -	\$ -	\$ -
Line 10e	Third-Party Litigation	\$ -	\$ -	\$ -
Line 10f	Tax Administrator Fees and Bonds	\$ -	\$ -	\$ -
Line 10g	Federal and State Tax Payments	\$ -	\$ -	\$ -
	<b>Total Disbursements for Receivership Operations</b>			<b>\$ 8,102,643.14</b>
<b>Line 11</b>	Disbursements for Distribution Expenses Paid by the Fund:	\$ -	\$ -	\$ -
Line 11a	Distribution Plan Development Expenses:	\$ -	\$ -	\$ -
Line 11b	Distribution Plan Implementation Expenses:	\$ -	\$ -	\$ -
<b>Line 12</b>	Disbursements to Court/Other	\$ -	\$ -	\$ -

**EXHIBIT A**

Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees	\$ -	\$ -	\$ -
Line 12b	Federal Tax Payments	\$ -	\$ -	\$ -
	<b>Total Disbursements to Court/Other</b>			
	<b>Total Funds Disbursed (Lines 9-11)</b>			<b>\$ 8,102,643.14</b>
Line 13	<b>Ending Balance (As of December 31, 2018)</b>			<b>\$ 223,661.05</b>
Line 14	<b>Ending Balance of Fund – Net Assets:</b>			
Line 14a	Cash & Cash Equivalents			<b>\$ 223,661.05</b>
Line 14b	Investments			<b>\$ -</b>
Line 14c	Other Assets or Uncleared Funds			
	<b>Total Ending Balance of Fund – Net Assets</b>			<b>\$ 223,661.05</b>

[1] Funds were received into the Hunter Wise Commodities accounts. See receipts attached hereto as Exhibit 1.

[2] Funds were disbursed to administer the estate and its assets. See expenses attached hereto as Exhibit 2.

Respectfully submitted,

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/s/ Melanie E. Damian  
Melanie E. Damian  
*Court-Appointed Receiver*

**Exhibit 1 Receipts 19th Report****CFTC v. Hunterwise Receipts of Hunterwise Commodities Account****Stephen Gillette**

7/11/2018		\$ 200.00	Stephen Gillette	clawback
7/16/2018		\$ 200.00	Stephen Gillette	clawback
8/15/2018		\$ 200.00	Stephen Gillette	clawback
9/15/2018		\$ 200.00	Stephen Gillette	clawback
10/15/2018		\$ 200.00	Stephen Gillette	clawback
11/19/2018		\$ 200.00	Stephen Gillette	clawback
12/21/2018		\$ 200.00	Stephen Gillette	clawback
		\$ 1,400.00		

**ICCP**

7/28/2018		\$ 400.00	Patricia Tessandori	clawback
8/13/2018		\$ 400.00	Patricia Tessandori	clawback
9/8/2018		\$ 200.00	Patricia Tessandori	clawback
10/9/2018		\$ 200.00	Patricia Tessandori	clawback
11/9/2018		\$ 200.00	Patricia Tessandori	clawback
12/21/2018		\$ 200.00	Patricia Tessandori	clawback
		\$ 1,600.00		

**Jocelyn Martorano**

7/30/2018		\$ 50.00	Jocelyn Martorano	clawback
7/30/2018		\$ 50.00	Jocelyn Martorano	clawback
		\$ 100.00		

**Ebay**

9/25/2018		\$ 320.67	Ebay	sale of coin
		\$ 320.67		

**Judgment**

10/9/2018		\$ 15,000.00		judgment
		\$ 15,000.00		

**Fidelitrade**

7/6/2018		\$ 43,222.80		Fidelitrade
10/30/2018		\$ 73,927.70		Fidelitrade
10/30/2018		\$ 21,795.80		Fidelitrade
		\$ 138,946.30		

**Daniel Denbaw**

10/30/2018		\$ 25.00	Daniel Denbaw	clawback
		\$ 25.00		

**Gibraltar Private/Iberia Bank**

7/25/2018		\$ 2,019.05	interest	
7/31/2018		\$ 45.00	refund from bank charges	
8/13/2018		\$ 1,011.56	interest	
9/30/2018		\$ 2,844.13	interest	
10/31/2018		\$ 4,074.47	interest	
11/30/2018		\$ 1,616.56	interest	
12/4/2018		\$ 75.00	refund from bank charges	
12/31/2018		\$ 404.25	interest	
		\$ 12,090.02		

Total Receipts	\$	157,391.97	
Interest	\$	12,090.02	
<b>Grand Total</b>	<b>\$</b>	<b>169,481.99</b>	<b>19th Report</b>

**EXHIBIT 2 EXPENSES  
CFTC v. Hunterwise Expenses of Hunterwise Commodities Account**

Date	Invoice	Check #	Payable	Amount	Description	Dates of Service
7/4/2018			Public storage	\$ 175.47	Unit in Miami	Jul-18
7/6/2018			debit			
7/6/2018			Advantage Laser Product	\$ 139.33	checks for distribution	
7/5/2018		5852	International Depository Services	\$ 50.00	storage in canada	
8/4/2018			Public storage	\$ 175.47	Unit in Miami	Aug-18
9/4/2018			debit			Sep-18
10/4/2018			Public storage	\$ 175.47	Unit in Miami	Oct-18
11/4/2018			debit			Nov-18
12/4/2018			Public storage	\$ 175.47	Unit in Miami	Dec-18
			<b>Total</b>	<b>\$ 1,242.15</b>		

Date	Invoice	Check #	Payable	Amount	Description	Dates of Service
10/5/2018			Professional Fees (DE 472)	\$ 50,362.72	10/5/18	
10/5/2018		6980	Damian & Valori	\$ 840.09		
10/5/2018		6981	Kapila Makumal LLP	\$ 200.00		
10/5/2018		6982	Ver Ploeg & Lumpkin PA	\$ 9,988.25		
10/5/2018		6983	Diamond McCarthy LLP	\$ 61,391.05		
			<b>Total</b>	<b>\$ 61,391.05</b>		