

**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,

v.

HUNTER WISE COMMODITIES, LLC,
et al.,

Defendants.

**LEGAL NOTICE OF CLAIMS ADMINISTRATION PROCESS
AND PLAN OF DISTRIBUTION**

IF YOU TRANSFERRED FUNDS TO HUNTER WISE COMMODITIES, LLC, HUNTER WISE SERVICES, LLC, HUNTER WISE CREDIT, LLC, HUNTER WISE TRADING, LLC, LLOYDS COMMODITIES, LLC, LLOYDS COMMODITIES CREDIT COMPANY, LLC, LLOYDS SERVICES, LLC, C.D. HOPKINS FINANCIAL, LLC, HARD ASSET LENDING GROUP, LLC, BLACKSTONE METALS GROUP, LLC, NEWBRIDGE ALLIANCE, INC., AND/OR UNITED STATES CAPITAL TRUST, LLC (THE “ENTITY DEFENDANTS”), AND/OR A DEALER WHO UTILIZED HUNTER WISE TO PURCHASE METALS ON YOUR BEHALF (THE “HUNTER WISE DEALERS”),¹ OR

IF YOU ARE A CREDITOR OF ONE OR MORE OF THE ENTITY DEFENDANTS,

YOU MAY BE ENTITLED TO RECEIVE A PAYMENT FROM FUNDS RECOVERED IN THIS CFTC ENFORCEMENT ACTION.

DEADLINE FOR ALL CUSTOMERS AND CREDITORS TO SUBMIT CLAIMS TO THE RECEIVER: SEPTEMBER 19, 2014.

¹ A complete list of the Hunter Wise Dealers is attached hereto as **Exhibit “1”**.

On May 16, 2014, the U.S. District Court for the Southern District of Florida (the “Court”) entered an Order of Final Judgment, Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief (the “Final Judgment”) [ECF # 306], which determined that of Defendants Hunter Wise Commodities, LLC, Hunter Wise Services, LLC, Hunter Wise Credit, LLC, Hunter Wise Trading, LLC (collectively, “Hunter Wise”) and their principals, committed fraud and violated various federal statutes in connection with the leveraged purchase of commodities, on behalf of retail customers, through illegal, off-exchange transactions after July 16, 2011 (the “HW Fraud”). In the Final Judgment, the Court also appointed Melanie E. Damian as the Equity Receiver (the “Receiver”) and directed the Receiver to, among other things, propose to the Court a claims administration process and plan of distribution for purposes of administering the claims of, and making distributions to, the retail customers and creditors of the Entity Defendants.

On July 15, 2014, the Receiver filed with the Court a Motion to Approve (A) Claims Administration Process and (B) Plan of Distribution [ECF # 312]. On August 5, 2014, the Court entered an Order [ECF # 314] approving the Claims Administration Process and Distribution Plan (described herein), pursuant to which the “Eligible Claimants” (defined below) shall file the Proof of Claim and Release form attached hereto for (i) the amounts of their principal losses they incurred as result of transferring funds to any of the Entity Defendants or any Hunter Wise dealer to purchase metals (if they are retail customers),² or (ii) the amount that the Entity Defendants owe them (if they are creditors), and the Receiver shall amass the “HW Distribution Fund” (defined below), and distribute the proceeds of such Fund, after payment of administrative expenses, to customers and creditors with an “Allowed Claim” (defined below).

LEGAL NOTICE

If you transferred funds to any of the Entity Defendants or Hunter Wise Dealers (*see* complete list at Exhibit “1”) to purchase metals, or you are a creditor of any of the Entity Defendants, you may be an Eligible Claimant entitled to file a Proof of Claim and Release, and you may have an Allowed Claim and, thus, be entitled to receive a *pro rata* distribution from the HW Distribution Fund based on your net losses or the amount of the debt to you. If you are an Eligible Claimant, to obtain any distribution from the HW

² Approximately 116 dealers (listed in the attached Exhibit “1”), including certain of the Entity Defendants, utilized Hunter Wise to purchase metals for their retail customers. All such dealers, collectively, shall be referred to herein as “Hunter Wise Dealers” and each one a “Hunter Wise Dealer”. The retail customers of all Hunter Wise Dealers, including those dealers against which the CFTC has entered orders imposing restitution obligations, may participate in the proposed Claims Administration Process, provided that the funds of those customers were actually transferred to Hunter Wise for the purpose of purchasing metals for those customers.

Distribution Fund, you must submit to the Receiver a Proof of Claim and Release form **on or before September 19, 2014.**

How was the HW Distribution Fund created?

The HW Distribution Fund is comprised of the funds and proceeds of sales of assets of and restitution paid by the Entity Defendants, the Individual Defendants and the Hunter Wise Dealers and other property. These funds are the results of the Receiver's sustained efforts to marshal, safeguard, liquidate and recover assets, pursuant to her duties as the Court-appointed Receiver in this CFTC enforcement action.

The Receiver has deposited all recovered funds into a Court-approved receivership account. After paying Court-approved administrative expenses, the proceeds of the HW Distribution Fund will be distributed, on a *pro rata* basis, to customers and creditors with Allowed Claims in accordance with the Court-approved Claims Administration Process and Distribution Plan.

The Receiver will conduct one Claims Administration Process for all Eligible Claimants (defined below) of the Estate and make an initial distribution and a final distribution to creditors with allowed claims based on the determinations made in that process. Within thirty (30) days following the conclusion of the Claims Administration Process, the Receiver shall seek to make an initial distribution of eighty percent (80%) of the total amount of cash on hand in the HW Distribution Fund at that time. After the asset recovery and liquidation phases of the Receivership have been concluded, the Receiver will make a final distribution of the remaining cash on hand in the Estate after payment of all administrative expenses that are incurred through the conclusion of the Receivership.

Who is an Eligible Claimant?

Customers are eligible to participate in the Claims Administration Process, and are encouraged to submit a claim, if they incurred a net loss after July 16, 2011 as a result of transferring funds to one or more of the Entity Defendants, their affiliates and/or Hunter Wise Dealers to purchase metals. Creditors are eligible to participate in the Claims Administration Process, and are encouraged to submit a claim, if one or more of the Entity Defendants incurred a debt to them after July 16, 2011. Such customers and creditors are "Eligible Claimants" in this Claims Administration Process.

What is required to have an Allowed Claim?

The claim of a retail customer or creditor will be allowed (an "Allowed Claim"), such that the customer or creditor will be entitled to receive a *pro rata* distribution from the initial distribution based on that customer's net loss as a result of transferring funds to one or more of the Entity Defendants and/or Hunter Wise Dealers, or the amount still

owed to that creditor, provided that the customer or creditor sufficiently demonstrates to the satisfaction of the Receiver through documentation and/or sworn statements, among other things:

- (i) that such customer (a) transferred funds directly to any Entity Defendant, or any Hunter Wise Dealer that transferred those funds to Hunter Wise, in connection with the HW Fraud, and (b) did not receive from any Entity Defendant or Hunter Wise Dealer any amount, or received an amount less than the amount they transferred to any Entity Defendant or Hunter Wise Dealer, and thus incurred a net loss after July 16, 2011 (for purposes of calculating a customer's net loss, if a customer had *excess equity* in its account at Hunter Wise on July 17, 2011, then the amount of such excess equity shall be treated as an amount "transferred" to Hunter Wise on that date³);
- (ii) that an Entity Defendant incurred a debt to such creditor after July 16, 2011, for goods or services that such creditor provided to such Entity Defendant;
- (iii) that such customer or creditor (a) was not an affiliate, family member or insider of any Defendant, any affiliate of any Defendant, any Hunter Wise Dealer, or the HW Fraud, and (b) did not knowingly assist any Defendant, affiliate of any Defendant, or Hunter Wise Dealer to effectuate, perpetuate or promote the HW Fraud or have knowledge of its fraudulent nature at the time funds were transferred to, or a debt was incurred by, those entities;

AND

- (iv) that the total amount of funds that such customer transferred to the Entity Defendants, their affiliates and/or Hunter Wise Dealers exceeds the total amount of funds that the Entity Defendants, their affiliates and/or Hunter Wise Dealers transferred back to such investor, or that the total value of the goods or services that the creditor provided to the Entity Defendants exceeds the total amount that the Entity Defendants paid to such creditor for those goods and services.

The Receiver may consider other factors in determining whether a claim is an Allowed Claim. If a customer cannot prove the foregoing factors (i), (iii) and (iv) or a creditor cannot prove the foregoing factors (ii), (iii) and (iv), that customer's or creditor's

³ "Excess equity" is the cash amount in the retail customer's account that was available for immediate withdrawal because it was above the margin call amount required to be maintained by the customer as part of his/her leveraged transaction, pursuant to the customer's agreement with Hunter Wise. *See* Initial Report [ECF # 102], at pp. 7-8.

claim will be disallowed and such customer or creditor will receive no distribution.⁴ If a *customer* makes the requisite showing regarding his or her claim and the Receiver determines that such claim is an Allowed Claim, the Receiver will calculate the amount such Allowed Claim by subtracting the total amount of all transfers that such customer received from the Entity Defendants, their affiliates and/or Hunter Wise Dealers from the total amount of transfers that such customer made to the Entity Defendants, their affiliates and/or Hunter Wise Dealers. If a *creditor* makes the requisite showing regarding his or her claim and the Receiver determines that such claim is an Allowed Claim, the Receiver will calculate the amount of such Allowed Claim by subtracting the total amount that the Entity Defendants paid to the creditor from the total value of the goods or services that such creditor provided to the Entity Defendants. **Customers and creditors with Allowed Claims will only be entitled to receive a *pro rata* distribution based on the *net loss* of the customer or the principal amount owed to the creditor;** the Receiver will not include within her calculation for distributions any profit that was reported or promised to a customer or any interest or fees that were promised to a creditor.

How does an Eligible Claimant submit a Claim?

The Claims Package contains all of the information you need. You will find copies of the Proof of Claim and Release form enclosed with this Legal Notice. You may also obtain information regarding the claims process by:

- Visiting the websites for this Receivership (www.hunterwisemanager.com) and the Receiver's counsel (www.dvllp.com).
- Submitting questions by mail to the Receiver at Damian & Valori LLP, 1000 Brickell Avenue, Suite 1020, Miami, Florida 33131.
- Emailing the Receiver at HunterWiseClaims@dvllp.com.
- Calling the Receiver's representative at 305-542-4410.

DEADLINES

⁴ To the extent a customer received transfers from Entity Defendants, their affiliates and/or Hunter Wise Dealers in excess of such customer's total transfers to those entities, or a creditor received transfers from Entity Defendants in excess of the value of the goods or services they provided, such that the customer or creditor profited from the HW Fraud, the Receiver reserves the right to pursue a claim against such customer or creditor for the return of the profit received and any other appropriate relief.

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| 08/05/2014 | Plan Approval Date |
| 08/15/2014 | Notice/Proof of Claim forms sent out |
| 09/19/2014 | Claims Bar Date |
| 10/09/2014 | Receiver's Initial Determination Date |
| 10/29/2014 | Customer Deadline for Appealing to Receiver |
| 11/10/2014 | Receiver's Final Determination Date |
| 11/28/2014 | Customer Deadline for Appealing to the Court |
| 12/15/2014 | Receiver Response to Appeals Deadline |
| 12/23/2014 | Receiver Files Motion to Approve Initial Distribution |
| TBD (based on completion of asset recovery phase) | Receiver Files Motion to Approve Final Distribution |