

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 12-81311-CV-MIDDLEBROOKS/BRANNON

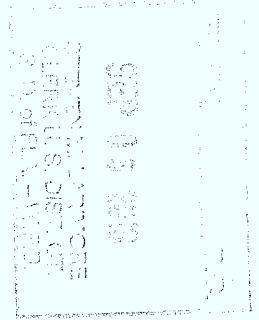
UNITED STATES COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

vs.

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

Defendants.



OMNIBUS ORDER

THIS CAUSE comes before the Court upon Motion by Defendants Fred Jager (“Jager”) and Harold Edward Martin, Jr. (“Martin”) for Extension of Time to Provide Expert Witnesses List (DE 116) (“Motion to Provide List”) filed on April 22, 2013;¹ Motion by Defendants James Burbage (“Burbage”) and Frank Guardino (“Guardino”) to Modify Asset Freeze (DE 117) filed on April 23, 2013;² Request by Defendant Baris Keser (“Keser”) to Open a Personal Bank Account (DE 119) (“Request”) filed on April 23, 2013;³ Recommendation by the Special Monitor and Corporate Manager (“Special Monitor”) with Respect to the Sabertooth Litigation⁴ (DE 168) (“Recommendation”) filed on July 17, 2013;⁵ Second Interim Application by the Special Monitor for an Order Approving and Authorizing Payment of Fees and Expenses of

¹ Plaintiff Commodity Futures Trading Commission (“CFTC”) filed a Response to the Motion to Provide List on May 9, 2013. (DE 133).

² On May 10, 2013, the CTFC filed a Response. (DE 134). Burbage and Gaudino filed their Reply on May 28, 2013. (DE 140).

³ Responses to the Request were due on May 10, 2013. As of today, no Responses have been filed.

⁴ The Sabertooth Litigation (“Sabertooth Litigation”) refers to the action styled *Lloyds Commodities, LLC v. Sabertooth Interactive, LLC*, Case No. CV-13-00375-JEM, which is pending in the United States District Court for the Middle District of California.

⁵ No objections were filed to the Recommendation.

Monitor and her Professionals (DE 181) (“Application for Payment”) filed on July 25, 2013;⁶ Motion in Limine by the CFTC to Preclude Defendants Martin from Calling CFTC Attorneys and Staff on the Subjects Designated in their Pretrial Witness List (DE 202) (“Motion in Limine to Preclude”) filed on August 14, 2013; Motion in Limine by the CFTC to Exclude Evidence and Argument at Trial Regarding the Uniform Commercial Code (DE 203) filed on August 14, 2013; Unopposed Motion by the CFTC to Reset Pretrial Dates (DE 206) filed on August 23, 2013; and Unopposed Motion by CFTC to Allow Special Corporate to Receive and Distribute the Proceeds of Administrative Settlements (DE 209) filed on September 6, 2013. I have reviewed the record and I am otherwise fully advised in the premises. Accordingly, it is hereby

ORDERED AND ADJUDGED that

1. Jager and Martin’s Motion to Provide List (DE 116) is **DENIED AS MOOT**; and
2. Burbage and Gaudino’s Motion to Modify Asset Freeze (DE 117) is **DENIED**.

It is further hereby

ORDERED AND ADJUDGED that

3. Keser’s Request (DE 119) is **GRANTED IN PART**;
4. Keser is **AUTHORIZED** to open a new Personal Bank Account (“Account”) as follows:
5. Within **ten days** of opening the Account, Keser must provide the Special Monitor with the name and address of the financial institution and account number;
6. Keser will notify the Special Monitor in writing of all disbursements to be made from the Account at least **forty-eight hours** prior to disbursement. For purposes of this Order, Keser may communicate by email to the Special Monitor;

⁶ No objections was filed to the Application for Payment.

7. The Special Monitor will have unfettered access to all information regarding the Account directly from the financial institution holding the Account funds;
8. No disbursements will be made from the Account over the objection of the Special Monitor;
9. Keser shall not open or use or attempt to use any other bank account other than the Account; and
10. In the event that the terms of this Order are not kept by Keser, the Special Monitor may, in her sole discretion, impose a freeze on the Account pursuant to her authority under the Court's entry of the Order Temporarily Appointing Special Monitor (DE 77) and the Order on Plaintiff's Motion for Preliminary Injunction (DE 78).

It is further hereby

ORDERED AND ADJUDGED that

11. The Special Monitor's Recommendation (DE 168) is **APPROVED**;
12. In the event the Monitor determines that Sabertooth LLC's claims in the Sabertooth Litigation should be pursued, and locates counsel who will undertake the representation of the Monitor on a contingency fee basis, the Special Monitor will file an Application seeking the Court's approval to employ such counsel on a contingency fee basis and to terminate the stay with respect to the Sabertooth Litigation (the "Sabertooth Litigation Application");
13. If the Special Monitor does not file the Sabertooth Litigation Application by the time she files her Third Status Report, on or before September 30, 2013, the Special Monitor will include her Recommendation with respect to the Sabertooth Litigation in that report.

It is further hereby

ORDERED AND ADJUDGED that

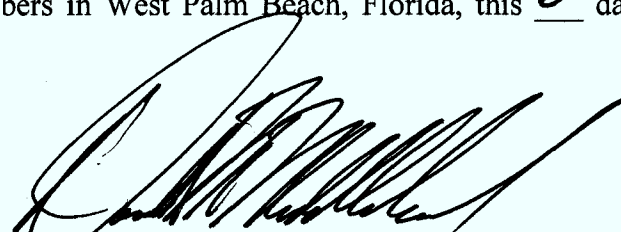
14. The Special Monitor's Application for Payment (DE 181) is **APPROVED**;
15. The total amount of fees and costs that the Special Monitor and her Lead Counsel, Damian & Valori, LLP, incurred during the Application Period in the amount of \$187,566.08, is hereby **APPROVED**;
16. The Special Monitor is **AUTHORIZED** to pay the Special Monitor and her Lead Counsel, Damian & Valori, LLP, the amount of \$187,566.08 (comprised of \$179,711.00 in fees, and \$7,855.08 in costs);
17. The total amount of fees and costs that the Special Monitor's Forensic Accountants, Kapila and Company, P.A., incurred during the Application Period, in the amount of \$33,135.52, is hereby **APPROVED**;
18. The Special Monitor is **AUTHORIZED** to pay to her Forensic Accountants, Kapila and Company, P.A., the amount of \$33,135.52 (comprised of \$33,130.50 in fees, and \$5.02 in costs);
19. The total amount of fees that the Special Monitor's N.D. Ill Counsel, Quarles & Brady, LLC, incurred during the Application Period, in the amount of \$3,898.50, is hereby **APPROVED**;
20. The Special Monitor is **AUTHORIZED** to pay her N.D. Ill. Counsel, Quarles & Brady, LLP, the amount of \$3,898.50; and
21. The Court reserves final approval of all fees approved herein until such time as the Special Monitor is discharged of her duties in this matter and/or final disbursement of funds held by the Monitorship Estate.

It is further hereby

ORDERED AND ADJUDGED that

22. The CFTC's Motion in Limine to Preclude (DE 202) is **DENIED AS MOOT**;
23. The CFTC's Motion in Limine to Exclude Evidence and Argument at Trial Regarding the Uniform Commercial Code (DE 203) is **DENIED AS MOOT**;
24. The CFTC's Unopposed Motion to Reset Pretrial Dates (DE 206) is **DENIED AS MOOT**;
25. The CFTC's Motion to Allow Special Monitor to Receive and Distribute the Proceeds of Administrative Settlements (DE 209) is **GRANTED**; and
26. The Special Monitor is authorized, in her court-appointed capacity, to receive the proceeds of settlements the CFTC negotiates with certain precious metals dealers who engaged in illegal transactions with retail customers pursuant to contractual arrangements with Hunter Wise Commodities, LLC, and affiliated companies.⁷

DONE AND ORDERED in Chambers in West Palm Beach, Florida, this 6 day of September, 2013.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record

⁷ The companies affiliated with Hunter Wise Commodities, LLC for purposes of this Order are: Hunter Wise Services, LLC, Hunter Wise Credit, LLC, Hunter Wise Trading, LLC, Lloyds Commodities LLC, Lloyds Commodities Credit Company, LLC, and Lloyds Services, LLC.