

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

Case No. 8:19-cv-00886-VMC-SPF

OASIS INTERNATIONAL GROUP,  
LIMITED; OASIS MANAGEMENT, LLC;  
SATELLITE HOLDINGS COMPANY;  
MICHAEL J. DACORTA;  
JOSEPH S. ANILE, II;  
RAYMOND P. MONTIE, III;  
FRANCISCO "FRANK" L. DURAN; and  
JOHN J. HAAS

Defendants,

and

MAINSTREAM FUND SERVICES,  
INC.; BOWLING GREEN CAPITAL  
MANAGEMENT, LLC; LAGOON  
INVESTMENTS, INC.; ROAR OF THE  
LION FITNESS, LLC; 444 GULF OF  
MEXICO DRIVE, LLC; 6922 LACANTERA  
CIRCLE, LLC; 13318 LOST KEY PLACE,  
LLC; and 4OAKS LLC,

Relief Defendants.

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**CONSOLIDATED RECEIVERSHIP ORDER**

WHEREAS this matter comes before this Court upon Plaintiff Commodity Futures Trading Commission's ("CFTC" or "Commission") Unopposed Motion for Entry of Consent Orders of Preliminary Injunction Against Defendants Raymond P. Montie, III ("Montie"),

John J. Haas (“Haas”), and Satellite Holdings Company (“SHC”), and Consent Order of Amended Preliminary Injunction and Other Equitable Relief Against Defendant Francisco “Frank” L. Duran (“Duran”), and for entry of this Consolidated Receivership Order, which supersedes two prior orders appointing the Receiver and giving the Receiver certain powers in this litigation (the April 15, 2019 Statutory Restraining Order, the “SRO,” Doc. #7; and the April 30, 2019 Order Appointing Receiver and Staying Litigation, Doc. #44); and,

WHEREAS the Court finds that, based on the record in these proceedings, the entry of these three orders is necessary and appropriate for the purposes of marshalling and preserving all assets (real, personal, intangible, or otherwise) of the Defendants and the Relief Defendants (“Receivership Assets”) as well as the assets of any other entities or individuals that: (a) are attributable to funds derived from pool participants, lenders, investors, or clients of the Defendants and/or Relief Defendants; (b) are held in constructive trust for the Defendants and/or Relief Defendants; (c) were fraudulently transferred by the Defendants and/or Relief Defendants; and/or (d) may otherwise be includable as assets of the estates of the Defendants and/or Relief Defendants (collectively, the “Recoverable Assets”) (Receivership Assets and Recoverable Assets, collectively, are referred to herein as “Receivership Property”); and,

WHEREAS this Court has subject matter jurisdiction over this action and personal jurisdiction over the Defendants and the Relief Defendants, and venue properly lies in this district.

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND  
DECREED THAT:**

1. Except as otherwise specified in the Consent Order of Preliminary Injunction Against Defendant Montie, the Consent Order of Preliminary Injunction Against Defendants Haas and SHC, and the Consent Order of Amended Preliminary Injunction Against Duran, the Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of the following Defendants and Relief Defendants: Oasis International Group, Limited; Oasis Management, LLC; Satellite Holdings Company; Michael J. DaCorta; Joseph S. Anile, II; Raymond P. Montie, III; Francisco “Frank” L. Duran; John J. Haas; Bowling Green Capital Management, LLC; Lagoon Investments, Inc.; Roar Of The Lion, Fitness, LLC; 444 Gulf of Mexico Drive, LLC; 4064 Founders Club Drive, LLC; 6922 Lacantera Circle, LLC; 13318 Lost Key Place, LLC; and 4Oaks LLC (collectively, “Receivership Defendants”).

2. With respect to Relief Defendant Mainstream Fund Services, Inc., the Court takes exclusive jurisdiction and possession of the Citibank account ending in -0764 as part of the Receivership Property. *See* Doc. #14 (dated April 23, 2019 and releasing the Mainstream f/b/o Oasis Citibank Accounts -1174, -5606 and -0764). The Court expressly reserves the right to determine at a later date whether other assets of Relief Defendant Mainstream Fund Services should be included in the Recoverable Assets.

3. Until further Order of this Court, Burton W. Wiand, Esq. of Wiand Guerra King P.A. is hereby appointed to serve without bond as receiver (the “Receiver”) for the estates of the Receivership Defendants. This Order shall also constitute the appointment or re-appointment of the Receiver for purposes of 28 U.S.C. § 754.

**I. Asset Freeze**

4. Except as otherwise specified in the Consent Order of Preliminary Injunction Against Defendant Montie, the Consent Order of Preliminary Injunction Against Defendants Haas and SHC, and the Consent Order of Amended Preliminary Injunction Against Duran, or except as otherwise specified herein, all Receivership Property remains frozen until further order of this Court. Accordingly, all persons and entities with direct or indirect control over any Receivership Property, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of or withdrawing such assets. This freeze shall include, but not be limited to, Receivership Property that is on deposit with financial institutions such as banks, brokerage firms, and mutual funds. This freeze shall also include but not be limited to Receivership Property held as real property, personal property, intangibles, collectibles, metals, and cryptocurrencies.

**II. General Powers and Duties of Receiver**

5. The Receiver shall have all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers, and general and limited partners of the entity Receivership Defendants under applicable state and federal law, by the governing charters, by-laws, articles and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754 and 1692, and Fed. R. Civ. P. 66.

6. The trustees, directors, officers, managers, employees, investment advisors, accountants, attorneys, and other agents of the Receivership Defendants are hereby dismissed

and the powers of any general partners, directors and/or managers are hereby suspended.

Such persons and entities shall have no authority with respect to the Receivership Defendants' operations or assets, except to the extent as may hereafter be expressly granted by the Receiver. The Receiver shall assume and control the operation of the Receivership Defendants and shall pursue and preserve all of their claims.

7. No person holding or claiming any position of any sort with any of the Receivership Defendants shall possess any authority to act by or on behalf of any of the Receivership Defendants.

8. Subject to the specific provisions in Sections III through XIV, below, the Receiver shall have the following general powers and duties:

- A. To use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Defendants, including, but not limited to: real estate, monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights, and other assets, together with all rents, profits, dividends, interest, or other income attributable thereto, of whatever kind, which the Receivership Defendants own, possess, have a beneficial interest in, or control directly or indirectly (collectively, the "Receivership Estates");
- B. To take custody, control and possession of all Receivership Property and records relevant thereto from the Receivership Defendants; to sue for and collect, recover, receive and take into possession from third parties all Receivership Property and records relevant thereto;
- C. To manage, control, operate and maintain the Receivership Estates and hold in his possession, custody and control all Receivership Property, pending further Order of this Court;
- D. To use Receivership Property for the benefit of the Receivership Estates, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver;
- E. To take any action which, prior to the entry of this Order, could have

been taken by the officers, directors, partners, managers, trustees and agents of the Receivership Defendants;

- F. To engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers;
- G. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;
- H. To issue subpoenas or letters rogatory to compel testimony of persons or production of records, consistent with the Federal Rules of Civil Procedure, except for the provisions of Fed. R. Civ. P. 26(d)(1), concerning any subject matter within the powers and duties granted by this Order;
- I. To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver;
- J. To pursue, resist, and defend all suits, actions, claims, and demands which may now be pending or which may be brought by or asserted, directly or indirectly, against the Receivership Estates;
- K. To request the assistance of the U.S. Marshals Service, in any judicial district, to assist the Receiver in carrying out his duties to take possession, custody, and control of, or identify the location of, any Receivership Assets, documents or other materials belonging to the Receivership Defendants. In addition, the Receiver is authorized to request similar assistance from any other federal, state, county, or civil law enforcement officer(s) or constable(s) of any jurisdiction; and,
- L. To take such other action as may be approved by this Court.

### **III. Access to Information**

- 9. Absent a valid assertion of their respective rights against self-incrimination under the Fifth Amendment, the individual Receivership Defendants (DaCorta, Anile, Montie, Duran and Haas) and the past and/or present officers, directors, agents, managers,

general and limited partners, trustees, attorneys, accountants, and employees of the entity Receivership Defendants, as well as those acting in their place, are hereby ordered and directed to preserve and, if they have not already done so pursuant to either the April 15, 2019 SRO (Doc. #7) or the April 30, 2019 Order Appointing Receiver and Staying Litigation (Doc. #44), to turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Defendants and/or all Receivership Property; such information shall include but not be limited to books, records, documents, accounts, and all other instruments and papers.

10. If they have not already done so pursuant to either the April 15, 2019 SRO (Doc. #7) or the April 30, 2019 Order Appointing Receiver and Staying Litigation (Doc. #44), then within fourteen (14) days of the entry of this Order, Defendants DaCorta, Anile, Montie, Duran, and Haas shall file with the Court and serve upon the Receiver and the CFTC a sworn statement listing: (a) the identity, location, and estimated value of all Receivership Property; (b) all employees (and job titles thereof), other personnel, attorneys, accountants, and any other agents or contractors of the Receivership Defendants; and, (c) the names, addresses, and amounts of claims of all known creditors of the Receivership Defendants.

11. If they have not already done so pursuant to either the April 15, 2019 SRO (Doc. #7) or the April 30, 2019 Order Appointing Receiver and Staying Litigation (Doc. #44), then within thirty (30) days of the entry of this Order, Defendants DaCorta, Anile, Montie, Duran, and Haas, and Relief Defendant Mainstream Fund Services, Inc. shall file with the Court and serve upon the Receiver and the Commission a sworn statement and accounting, with complete documentation, covering the period from January 1, 2011 to the

present:

- A. Identifying every account at every bank, brokerage, or other financial institution: (a) over which Receivership Defendants have signatory authority; and (b) opened by, in the name of, or for the benefit of, or used by, the Receivership Defendants;
- B. Identifying all credit, bank, charge, debit, or other deferred payment card issued to or used by each Receivership Defendant, including but not limited to the issuing institution, the card or account number(s), all persons or entities to which a card was issued and/or with authority to use a card, the balance of each account and/or card as of the most recent billing statement, and all statements for the last twelve months;
- C. Identifying all assets received by any of them from any person or entity, including the value, location, and disposition of any assets so received; and
- D. Identifying all funds received by the Receivership Defendants, and each of them, in any way related, directly or indirectly, to the conduct alleged in Plaintiffs' Complaint. The submission must clearly identify, among other things, all investors, the securities they purchased, the date and amount of their investments, and the current location of such funds.

12. If they have not already done so pursuant to the April 30, 2019 Order Appointing Receiver and Staying Litigation (Doc. #44), then within thirty (30) days of the entry of this Order, Defendants DaCorta, Anile, Montie, Duran, and Haas shall provide to the Receiver and the CFTC copies of the Receivership Defendants' federal income tax returns for 2011 through 2018 with all relevant and necessary underlying documentation.

13. Absent a valid assertion of their respective rights against self-incrimination under the Fifth Amendment, Defendants DaCorta, Anile, Montie, Duran, and Haas, Relief Defendant Mainstream Fund Services, Inc., and the entity Receivership Defendants' past and/or present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers, and general and limited partners, as well as other



appropriate persons or entities, shall answer under oath to the Receiver all questions which the Receiver may put to them and produce all documents as required by the Receiver regarding the business of the Receivership Defendants, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Defendants. In the event that the Receiver deems it necessary to require the appearance of the aforementioned persons or entities, the Receiver shall make his deposition requests in accordance with the Federal Rules of Civil Procedure.

14. The Receivership Defendants, Relief Defendant Mainstream Fund Services, Inc., or other persons acting or purporting to act on their behalf, are required to assist the Receiver in fulfilling his duties and obligations. As such, they must respond promptly and truthfully to all requests for information and documents from the Receiver.

#### **IV. Access to Books, Records and Accounts**

15. Except as otherwise specified in the Consent Order of Preliminary Injunction Against Defendant Montie, the Consent Order of Preliminary Injunction Against Defendants Haas and SHC, and the Consent Order of Amended Preliminary Injunction Against Duran, the Receiver is authorized to take immediate possession of all assets, bank accounts or other financial accounts, books and records, and all other documents or instruments relating to the Receivership Defendants. All persons and entities having control, custody, or possession of any Receivership Property are hereby directed to turn such property over to the Receiver.

16. The Receivership Defendants, and Relief Defendant Mainstream Fund Services, Inc., as well as their agents, servants, employees, attorneys, any persons acting for or on behalf of the Receivership Defendants, and any persons receiving notice of this Order

by personal service, facsimile transmission, or otherwise, having possession of the property, business, books, records, accounts, or assets of the Receivership Defendants are hereby directed to deliver the same to the Receiver, his agents, and/or his employees.

17. All banks, brokerage firms, financial institutions, and other persons or entities that have possession, custody, or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, any of the Receivership Defendants that receive actual notice of this Order by personal service, facsimile transmission, or otherwise shall:

- A. Not liquidate, transfer, sell, convey, or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Defendants, except upon instructions from the Receiver;
- B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control, without the permission of this Court;
- C. Within five (5) business days of receipt of such notice, file with the Court and serve on the Receiver and counsel for Plaintiffs a certified statement setting forth, with respect to each such account or other asset, the balance in the account or description of the assets as of the close of business on the date of receipt of the notice; and,
- D. Cooperate expeditiously in providing information and transferring funds, assets, and accounts to the Receiver or at the direction of the Receiver.

**V. Access to Real and Personal Property**

18. The Receiver is authorized to take immediate possession of all personal property of the Receivership Defendants, wherever located, including but not limited to electronically stored information, computers, laptops, hard drives, external storage drives, and any other such memory, media or electronic storage devices, books, papers, data processing records, evidence of indebtedness, bank records and accounts, savings records and

accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies, and equipment.

19. Except as otherwise specified in Paragraphs 20 and 21 below, the Receiver is authorized to take immediate possession of all real property of the Receivership Defendants, wherever located, including but not limited to all ownership and leasehold interests and fixtures. Upon receiving actual notice of this Order by personal service, facsimile transmission or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are (without the express written permission of the Receiver) prohibited from: (a) entering such premises; (b) removing anything from such premises; or (c) destroying, concealing or erasing anything on such premises. Real property includes, but is not limited to, premises located at:

Premises Address	Description
444 Gulf of Mexico Drive Longboat Key, Florida	Defendant OIG's main office (Owned by Relief Defendant 444 Gulf of Mexico Drive)
4064 Founders Club Drive Sarasota, Florida	Defendant Anile's residence (Owned by Relief Defendant 4064 Founders Club Drive, LLC)
6922 Lacantera Circle Lakewood Ranch, Florida	Defendant DaCorta's residence (Owned by Relief Defendant 6922 Lacantera Circle, LLC)
13318 Lost Key Place Lakewood Ranch, Florida	Defendant DaCorta's residence (Owned by Relief Defendant 13318 Lost Key Place, LLC)
7312 Desert Ridge Glen Lakewood Ranch, Florida	Owned by 7312 Desert Ridge Glen, LLC (of which Defendant DaCorta was a principal)
17006 Vardon Terrace, #105 Lakewood Ranch, Florida	Owned by 17006 Vardon Terrace #105, LLC (of which Defendant OM is a member and DaCorta is the registered agent).

Premises Address	Description
16804 Vardon Terrace, #108 Lakewood Ranch, Florida	Owned by 16804 Vardon Terrace, #108, LLC (of which Defendant OM is a member and DaCorta is the registered agent).
16904 Vardon Terrace, #106 Lakewood Ranch, Florida	Owned by 16904 Vardon Terrace, #106, LLC (of which Defendant DaCorta is the authorized representative).
16804 Vardon Terrace, #307 Lakewood Ranch, Florida	Owned by Vincent Raia (Defendant OM holds a \$215,000 mortgage on property).
6300 Midnight Pass Road, No. 1002 Sarasota, Florida	Owned by 6300 Midnight Pass Road, No. 1002, LLC (of which DaCorta is the authorized representative).

20. Defendant Montie owns residences located on Goose Pond Road in Lake Aerial, Pennsylvania; on MacArthur Boulevard in Hauppauge, New York; and on New Hampshire Road in Jackson, New Hampshire. Pursuant to Paragraphs 9(i) and 9(j) of Montie's Consent Preliminary Injunction Order, Montie is responsible for making the mortgage, property tax, and insurance payments and for the general upkeep of these residences.

21. Defendant Haas jointly owns a residence, which he previously identified at Doc. #143-1. Pursuant to Paragraph 9(i) of Haas's Consent Preliminary Injunction Order, Haas is responsible for making mortgage, property tax, and insurance payments and for the general upkeep of this residence.

22. In order to execute the express and implied terms of this Order, the Receiver is authorized to change door locks to the premises described above in Paragraph 19. The Receiver shall have exclusive control of the keys. The Receivership Defendants, or any other person acting or purporting to act on their behalf, are ordered not to change the locks in any manner, nor to have duplicate keys made, nor shall they have keys in their possession during

the term of the receivership.

23. The Receiver is authorized to open all mail directed to or received by or at the offices or post office boxes of the Receivership Defendants, and to inspect all mail opened prior to the entry of this Order, to determine whether items or information therein fall within the mandates of this Order.

#### **VI. Notice to Third Parties**

24. The Receiver shall promptly give notice of his appointment to all known officers, directors, agents, employees, shareholders, creditors, debtors, managers, and general and limited partners of the Receivership Defendants, as the Receiver deems necessary or advisable to effectuate the operation of the receivership.

25. All persons and entities owing any obligation, debt, or distribution with respect to an ownership interest to any Receivership Defendant shall, until further ordered by this Court, pay all such obligations in accordance with the terms thereof to the Receiver and its receipt for such payments shall have the same force and effect as if the Receivership Defendant had received such payment.

26. The Receiver shall not be responsible for payment or performance of any obligations of the Receivership Defendants that were incurred by, or for the benefit of, the Receivership Defendants prior to the date of this Order, including but not limited to any agreements with third party vendors, landlords, brokers, purchasers, or other contracting parties.

27. In furtherance of his responsibilities in this matter, the Receiver is authorized to communicate with, and/or serve this Order upon, any person, entity, or government office

that he deems appropriate to inform them of the status of this matter and/or the financial condition of the Receivership Estates. All government offices which maintain public files of security interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver or Plaintiff.

28. The Receiver is authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations or activities of any of the Receivership Defendants (the "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Receivership Defendants. The Postmaster shall not comply with, and shall immediately report to the Receiver, any change of address or other instruction given by anyone other than the Receiver concerning the Receiver's Mail. The Receivership Defendants shall not open any of the Receiver's Mail and shall immediately turn over such mail, regardless of when received, to the Receiver. All personal mail of any individual Receivership Defendants, and/or any mail appearing to contain privileged information, and/or any mail not falling within the mandate of the Receiver, shall be released to the named addressee by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mail box, depository, business or service, or mail courier or delivery service, hired, rented or used by the Receivership Defendants. The Receivership Defendants shall not open a new mailbox, or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the U.S. mail, a private mail depository, or courier service.

29. Subject to payment for services provided, any entity furnishing water, electric, telephone, sewage, garbage, or trash removal services to the Receivership Defendants shall

maintain such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

30. The Receiver is authorized to assert, prosecute, and/or negotiate any claim under any insurance policy held by or issued on behalf of the Receivership Defendants, or their officers, directors, agents, employees, or trustees, and to take any and all appropriate steps in connection with such policies.

**VII. Injunction Against Interference with Receiver**

31. The Receivership Defendants, Relief Defendant Mainstream Fund Services, Inc., and all persons receiving notice of this Order by personal service, facsimile or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would:

- A. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Property; such prohibited actions include but are not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property;
- B. Hinder, obstruct or otherwise interfere with the Receiver in the performance of his duties; such prohibited actions include but are not limited to concealing, destroying, or altering records or information;
- C. Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include but are not limited to releasing claims or disposing, transferring, exchanging, assigning, or in any way conveying any Receivership Property, enforcing judgments, assessments, or claims against any Receivership Property or any Receivership Defendant, attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate the due date of any lease, loan, mortgage, indebtedness, security agreement, or other

agreement executed by any Receivership Defendant, or which otherwise affects any Receivership Property; or,

- D. Interfere with or harass the Receiver, or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estates.

32. The Receivership Defendants and Relief Defendant Mainstream Fund Services, Inc., or any person acting or purporting to act on their behalf shall cooperate with and assist the Receiver in the performance of his duties.

33. The Receiver shall promptly notify the Court and the CFTC's counsel of any failure or apparent failure of any person or entity to comply in any way with the terms of this Order.

#### **VIII. Stay of Litigation**

34. As set forth in detail below, the following proceedings, excluding the instant proceeding and all police or regulatory actions and actions of the CFTC or the Receiver related to the above-captioned enforcement action, are stayed until further Order of this Court:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in his capacity as Receiver; (b) any Receivership Property, wherever located; (c) any of the Receivership Defendants, including subsidiaries and partnerships; or, (d) any of the Receivership Defendants' past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as "Ancillary Proceedings").

35. The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action in connection with any such proceeding, including, but not limited to, the issuance or



employment of process.

36. All Ancillary Proceedings are stayed in their entirety, and all Courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the Receivership Defendants or the Receiver against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceedings is in effect as to that cause of action.

#### **IX. Managing Assets**

37. The Receiver shall establish one or more custodial accounts at a federally insured bank to receive and hold all cash equivalent Receivership Property (the “Receivership Funds”).

38. The Receiver may, without further Order of this Court, transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.

39. Subject to Paragraph 40, immediately below, the Receiver is authorized to locate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such real property.

40. Upon further Order of this Court, pursuant to such procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real property in the Receivership Estates. The parties agree the Receiver can move the Court to waive strict compliance with 28 U.S.C. §§ 2001 and 2004.

41. The Receiver is authorized to take all actions to manage, maintain, and/or wind-down business operations of the Receivership Defendants, including: (i) furloughing, terminating, and/or engaging employees on a contract basis; (ii) closing the business; and (iii) making legally required payments to creditors, employees, and agents of the Receivership Estates and communicating with vendors, investors, governmental and regulatory authorities, and others, as appropriate.

42. The Receiver shall take all necessary steps to enable the Receivership Funds to obtain and maintain the status of a taxable "Settlement Fund," within the meaning of Section 468B of the Internal Revenue Code and of the regulations, when applicable, whether proposed, temporary or final, or pronouncements thereunder, including the filing of the elections and statements contemplated by those provisions. The Receiver shall be designated the administrator of the Settlement Fund, pursuant to Treas. Reg. § 1.468B-2(k)(3)(i), and shall satisfy the administrative requirements imposed by Treas. Reg. § 1.468B-2, including but not limited to: (a) obtaining a taxpayer identification number; (b) timely filing applicable federal, state, and local tax returns and paying taxes reported thereon; and (c) satisfying any information, reporting, or withholding requirements imposed on distributions from the Settlement Fund. The Receiver shall cause the Settlement Fund to pay taxes in a manner

consistent with treatment of the Settlement Fund as a “Qualified Settlement Fund.” The Receivership Defendants and Relief Defendant Mainstream Fund Services, Inc. shall cooperate with the Receiver in fulfilling the Settlement Funds’ obligations under Treas. Reg. § 1.468B-2.

**X. Investigate and Prosecute Claims**

43. Subject to the requirement in Section VIII above, that leave of this Court is required to resume or commence certain litigation, the Receiver is authorized, empowered, and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, and/or adjust actions in any state, federal or foreign court or proceeding of any kind as may in his discretion, and in consultation with the CFTC’s counsel, be advisable or proper to recover and/or conserve Receivership Property.

44. Subject to his obligation to expend receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered, and directed to investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Estate, as the Receiver deems necessary and appropriate. The Receiver may seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order. Where appropriate, the Receiver should provide prior notice to counsel for the CFTC before commencing investigations and/or actions.

45. The Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by all entity Receivership Defendants.

46. The Receiver has a continuing duty to ensure that there are no conflicts of interest between the Receiver, his Retained Personnel (as that term is defined below), and the Receivership Estate.

#### **XI. Bankruptcy Filing**

47. The Receiver may seek authorization of this Court to file voluntary petitions for relief under Title 11 of the United States Code (the “Bankruptcy Code”) for the Receivership Defendants. If a Receivership Defendant is placed in bankruptcy proceedings, the Receiver may become, and may be empowered to operate each of the Receivership Estates as, a debtor in possession. In such a situation, the Receiver shall have all of the powers and duties as provided a debtor in possession under the Bankruptcy Code to the exclusion of any other person or entity. Pursuant to Paragraph 5 above, the Receiver is vested with management authority for all entity Receivership Defendants and may therefore file and manage a Chapter 11 petition.

48. The provisions of Section VIII above bar any person or entity, other than the Receiver, from placing any of the Receivership Defendants in bankruptcy proceedings.

#### **XII. Liability of Receiver**

49. Until further Order of this Court, the Receiver shall not be required to post bond or give an undertaking of any type in connection with his fiduciary obligations in this matter.

50. The Receiver and his agents, acting within scope of such agency, are entitled

to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or his agents be liable to anyone for their good faith compliance with their duties and responsibilities.

51. This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions committed in their representative capacities.

52. In the event the Receiver decides to resign, the Receiver shall first give written notice to the CFTC's counsel of record and the Court of its intention, and the resignation shall not be effective until the Court appoints a successor. The Receiver shall then follow such instructions as the Court may provide.

### **XIII. Recommendations and Reports**

53. The Receiver is authorized, empowered, and directed to develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property (the "Liquidation Plan").

54. The Receiver has filed and the Court has approved a Liquidation Plan. Doc. ##103, 112.

55. Within thirty (30) days after the end of each calendar quarter, the Receiver shall file and serve a full report and accounting of his activities (the "Quarterly Status Report"), reflecting (to the best of the Receiver's knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal

obligations of the Receivership Estate. The Receiver filed his first Status Report on June 14, 2019. Doc. #113. His next Status Report shall be due within thirty (30) days of September 30, 2019, which is the end of the third calendar quarter for 2019.

56. The Quarterly Status Report shall contain the following:
- A. A summary of the operations of the Receiver;
  - B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
  - C. A schedule of all the Receiver's receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with information for the quarterly period covered and information for the entire duration of the receivership;
  - D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;
  - E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);
  - F. The status of creditor claims proceedings, after such proceedings have been commenced; and,
  - G. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.

57. On the request of the CFTC, the Receiver shall provide the CFTC with any documentation that the CFTC deems necessary to meet its reporting requirements, that is mandated by statute or Congress, or that is otherwise necessary to further the CFTC's mission.

**XIV. Fees, Expenses and Accountings**

58. Subject to Paragraphs 59–65 immediately below, the Receiver need not obtain Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary course of the administration and operation of the receivership. Further, prior Court approval is not required for payments of applicable federal, state, or local taxes.

59. Subject to Paragraph 60 immediately below, the Receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist him in carrying out the duties and responsibilities described in this Order. The Receiver shall not engage any Retained Personnel without obtaining an Order of the Court authorizing such engagement.

60. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estates. The Receiver and Retained Personnel shall not be compensated or reimbursed by, or otherwise entitled to, any funds from the Court or the CFTC. Such compensation shall require the prior review by the CFTC and approval of the Court.

61. Within forty-five (45) days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estates (the “Quarterly Fee Applications”). At least thirty (30) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the CFTC a complete copy of the proposed Quarterly Fee Application, together with all exhibits and relevant billing information in a format to be provided by the CFTC’s staff. The Receiver filed his first fee application on June 14, 2019. Doc. #114. The next fee application shall be due within forty-five (45) days after September

30, 2019, which is the end of the third calendar quarter for 2019..

62. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the receivership. At the close of the receivership, the Receiver will file a final fee application, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the course of the receivership.

63. Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court. The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.

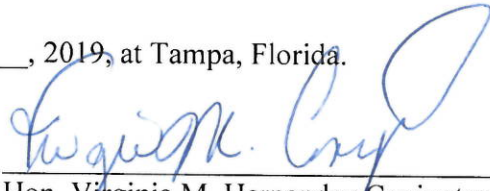
64. Each Quarterly Fee Application shall:

- A. Comply with the terms of the CFTC billing instructions agreed to by the Receiver; and,
- B. Contain representations (in addition to the Certification required by the Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estate; and (ii) with the exception of the Billing Instructions, the Receiver has not entered into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

65. At the close of the Receivership, the Receiver shall submit a Final Accounting as well as the Receiver's final application for compensation and expense reimbursement.



IT IS SO ORDERED, this 11<sup>th</sup> day of July, 2019, at Tampa, Florida.

  
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Hon. Virginia M. Hernandez Covington  
United States District Judge

Hon. Sean P. Flynn  
United States Magistrate Judge