

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

SCANNED

Case No. CV 02-6619 PA (SSx) Date May 16, 2005

Title Commodity Futures Trading Comm'n v. Nawab Ali Khan Ali, et al.

DECKETED ON CM  
MAY 18 2005  
BY

Present: The Honorable PERCY ANDERSON, UNITED STATES DISTRICT JUDGE

C. Kevin Reddick

Not Reported

N/A

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

Proceedings: IN CHAMBERS


Before the Court is plaintiff Commodity Futures Trading Commission's ("CFTC") Motion for Order Establishing Restitution Claims Process (Docket No. 94). Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds that this matter is appropriate for hearing without oral argument. The hearing calendared for May 16, 2005 is vacated, and the matter taken off calendar.

On May 11, 2004, the Court issued a Final Order of Default Judgment against defendants Nawab Ali Khan Ali (a.k.a. Nawab Khan and Eric Ali), Romeo Ancheta (a.k.a. Roger Barreto), Mega Trend 2000, Inc., and Sterling FX International, LLC. In this action, CFTC alleged that the defendants violated the Commodity Exchange Act. As part of the Final Order of Default Judgment, the victims of defendants' fraud are entitled to restitution in accordance with a plan of distribution submitted by CFTC and approved by the Court. Because of defendants' inadequate record keeping, CFTC cannot determine the identities of all of the investors and the amounts invested. CFTC therefore requests that the Court establish a two-step restitution claim process.

The two-step process proposed by CFTC requires CFTC to identify the names and addresses of the defrauded investors and mail to them an explanatory letter and claim form. The investors would then submit the claim forms which would be analyzed by CFTC. CFTC would then prepare a proposed distribution plan, submit that plan to the Court and all investors who submitted a claim by way of a noticed motion, and allow the investors to submit objections to the distribution plan to CFTC. CFTC would forward any objections to the Court and the Court would conduct a hearing on the distribution plan.

In fashioning distribution plans, courts are afforded "broad deference" in the exercise of their supervisory role. Commodity Futures Trading Comm'n v. Topworth Intern., Ltd., 205 F.3d 1107, 1115

Initials of Preparer

  
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(9 Cir. 1999). The Ninth Circuit “generally uphold[s] reasonable procedures instituted by the district court that serve th[e] purpose’ of orderly and efficient administration of the receivership for the benefit of creditors.” Id. (quoting Securities & Exch. Comm’n v. Hardy, 803 F.2d 1034, 1037-38 (9th Cir. 1986)). Here, the Court exercises its discretion by approving the process proposed by CFTC and setting the following dates:

Deadline for CFTC to mail notice and claim form:	July 18, 2005
Deadline for investors to submit claim forms to CFTC:	August 15, 2005
Deadline for CFTC to file and serve motion to confirm plan:	September 12, 2005
Deadline for investors to submit objections to CFTC:	October 11, 2005
Deadline for CFTC to forward objections to the Court:	October 24, 2005
Hearing on Distribution plan:	November 7, 2005 at 1:30 p.m.

The Court further approves the sample notice and claim forms proposed by CFTC and attached as Exhibits C and D to CFTC’s Motion.<sup>1/</sup>

For all of the foregoing reasons, the Court grants CFTC’s Motion for Order Establishing Restitution Claims Process and approves the claims process proposed by CFTC as modified to include the deadlines contained in this Order.

IT IS SO ORDERED.

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<sup>1/</sup> The Court notes that the notice initially defines Sterling FX International, LLC as “Sterling FX.” However, in the remainder of the notice, Sterling FX International, LLC is referred to as “Sterling.” For clarity, the notice which CFTC provides to the investors should consistently refer to Sterling FX International, LLC as “Sterling FX.” The reference to name of the Judge assigned to this matter should be deleted and revised to read “the Court . . .”