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October 31, 2012

The Honorable Pam Bondi
Attorney General
State of Florida
The Capitol PL-01
Tallahassee, FL 32399

Dear Ms. Attorney General,

I am writing to you to ask that you take action to fully investigate the failure of MF Global and the illegal movement of \$1.6 billion in customer funds due to the failure of the U.S. Department of Justice (DOJ) to completely secure the return of customer funds and their inability or desire to hold anyone accountable for breaking the law. I would like to outline some of the reasons there appears to be an inability of the DOJ to take action against friends and former clients and colleagues who were involved at MF Global in the disappearance of customer money.

As you know, on October 31, 2011, MF Global, a firm registered with the Securities and Exchange Commission as a broker-dealer and with the Commodity Futures Trading Commission as a futures commission merchant (FCM), filed for bankruptcy. The firm failed as a result of losses from bets on European debt.

By law, customer funds entrusted to FCMs are to be kept in separate accounts and the firm is not allowed to use that money for its own purposes. In the MF Global case, however, approximately \$1.6 billion in customer funds was used by the firm to meet margin calls on the firm's own trades in European debt.

A recent *New York Times* article indicated that the MF Global investigation will soon conclude without any indictment or criminal prosecution of any of MF Global's top executives. The same report also suggests that the DOJ believes that the funds were improperly transferred not due to criminal behavior, but rather, as a result of the hyper-activity of the firm's final days and poor risk controls. That ignores the fact that segregated funds were illegally removed from segregated customer accounts by MF Global employees and used by the firm for other purposes.

The apparent decision to not pursue criminal charges against top MF Global executives appears to be premature and tarnished by a perception of impropriety. Reports indicate that Jon Corzine, the firm's chief executive officer, was not interviewed by DOJ investigators until the beginning of September 2012, nearly a full year after customer funds went missing. Additionally, I understand that Edith O'Brien, the firm's treasurer who is believed to hold key information about the illegal transfer, has yet to be questioned.

I also understand that Ms. O'Brien has yet to be granted the immunity she has requested in exchange for her testimony and at the advice of her attorney, has invoked her Fifth Amendment rights. This silence has impeded the investigation. Interestingly, Ms. O'Brien's counsel, Mr. Weingarten, is widely reported to have close personal, professional, and political ties to U.S. Attorney General Eric Holder. These conflicts of interest have been speculated by many to have interfered with the administration of justice in the case of MF Global. In addition to being a close personal friend of Mr. Holder, Mr. Weingarten is reported to have been a colleague of Mr. Holder at the DOJ in the late 1970s, served as Mr. Holder's personal attorney in the 2009 investigation of U.S. tax fugitive Marc Rich, and has been deeply involved in a non-profit organization with Mr. Holder in Washington, D.C.

These relationships and conflicts of interest could reasonably generate the public perception of impropriety and special treatment under the law. Mr. Holder has refused calls by many in Congress to appoint an independent counsel to investigate this matter.

At present, it appears that investigation by State Attorneys General is the only means by which an impartial investigation of this matter may be obtained. If criminal activity was engaged in at MF Global, it is important that those responsible be held accountable so that confidence can be restored and individuals can be assured that their money is safe and secure when in segregated accounts. I encourage your office to investigate and prosecute those responsible for any MF Global fraud to the fullest extent of the law.

While MF Global's bankruptcy is not the first time a commodities broker has failed, it does mark the first time that customers have suffered losses resulting from the improper handling of customer funds. These shortfalls affect thousands of customers who are now unable to access the full balance of their accounts.

If we want to restore confidence in the commodity markets in the future, we must protect the sanctity of segregated accounts. The failure to do so will only serve to further erode investor confidence. Furthermore, the lack of an independent investigation into MF Global's failure by parties that do not have conflicts of interest will only serve to undermine investor confidence and confidence in our legal institutions.

If my office can be of any assistance to you during your investigation, please let me know. Please see the attached information, which may be helpful to your investigators.

Sincerely,



Bill Posey
Member of Congress