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5 Court Appointed Distribution Agent  
6

7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11 SECURITIES AND EXCHANGE )  
12 COMMISSION, )  
13 Plaintiff, )  
14 vs. )  
15 )  
16 CURRENCY TRADING )  
INTERNATIONAL, INC., BRIAN R. )  
17 MOORE, CRAIG A. CUNNINGHAM, )  
18 CRAIG WIGINTON, JAMES R. )  
KELSALL, CHRISTIAN J. WEBER )  
19 and ROBERT SHANE JONES )

20 Defendant.  
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Case No.: CV 02-05143 PA (CTx)  
ASSIGNED JUDGE:  
HON. PERCY ANDERSON  
HEARING DATE: March 22, 2010  
TIME: 1:30 P.M.  
COURTROOM: 15  
312 N. Spring St  
Los Angeles, CA 90012  
NOTICE OF MOTION AND MOTION  
BY DISTRIBUTION AGENT FOR  
ORDERS:  
(1) APPROVING THE  
DISTRIBUTION AGENT'S SECOND  
AND FINAL REPORT AND ACCOUNT  
ON THE CLAIMS ADMINISTRATION  
AGAINST DEFENDANTS;  
(2) APPROVING AND DENYING  
CLAIMS AND APPROVING A  
PROPOSED FINAL DISTRIBUTION  
PLAN AND PAYMENT TO APPROVED  
CLAIMANTS;  
(3) AUTHORIZING PAYMENT OF  
INCOME TAXES, PENALTIES AND  
INTEREST DUE BY SETTLEMENT  
FUND;  
(4) APPROVING AND AUTHORIZING  
PAYMENT OF "POST-ORDER"  
DISTRIBUTION FEES AND  
EXPENSES;

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- ) (5) TERMINATING THE CLAIMS
- ) ADMINISTRATION ESTATE AND
- ) DISCHARGING AND EXONERATING
- ) DISTRIBUTION AGENT AND
- ) SPECIAL TAX ADMINISTRATOR
- ) SUBJECT TO PAYMENT OF
- ) EXPENSES OF ADMINISTRATION;
- ) AND,
- ) (6) FOR FURTHER INSTRUCTIONS
- ) TO DISTRIBUTION AGENT AND
- ) SPECIAL TAX ADMINISTRATOR;
- ) SUPPORTING DECLARATION OF
- ) RICHARD WEISSMAN

TO THE HONORABLE PERCY ANDERSON, US DISTRICT COURT  
JUDGE, INTERESTED PARTIES AND COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN that on March 22, 2010, at 1:30 P.M. in Courtroom 15, before the Honorable Percy Anderson, Judge Presiding, of the above-entitled Court, located at 312 N. Spring Street, Los Angeles, California 90012, the Court appointed Distribution Agent, Richard Weissman, will move the Court for the following Orders:

1. Approving the Distribution Agent's Second and Final Report and Account on the Claims Administration against the defendants herein;
2. Approving and denying claims and approving a proposed distribution plan and payment to approved claimants.
3. Authorizing the payment of Income Taxes, Penalties and Interest due by the "Settlement Fund";
4. Approving and authorizing payment of "Post-Order" Distribution fees and expenses;
5. Terminating the claims administration estate and

1 discharging and exonerating the Distribution Agent and  
2 Special Tax Administrator, subject to payment of expenses of  
3 administration; and,

4           6. For further instructions to the Distribution  
5 Agent and Special Tax Administrator to facilitate closure of  
6 said administrative program.  
7

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9           Said motion is based on the following grounds:

10           A. The administration period and last day for the  
11 filing of claims against the named defendants herein, as  
12 directed by the Court under its Minute Order entered on May  
13 26, 2009, was extended from May 31, 2009 to August 31, 2009  
14 (the "Bar Date"). The Bar Date has expired.

15           B. Agent hereby submits his Second and Final Report  
16 and Account ("Final Report") on the Claims Administration and  
17 requests the Court's review and approval thereof. Agent also  
18 requests orders approving a final distribution plan and  
19 authorizing payment to the approved Eligible Claimants of the  
20 net "CTI Restoration Funds" disgorged by the defendants and  
21 currently held by Agent (the "Fund"). Agent recommends  
22 approval of "Eligible Claims" in the aggregate sum of  
23 \$13,398,699.84. Said sum substantially exceeds the amount of  
24 CTI Restoration Funds of \$2,556,286 obtained by Agent and  
25 available for payment of expenses and claims.  
26  
27

28           C. It is estimated that an amount of \$1,995,001

1 will be available for final distribution to the Eligible  
2 Claimants following the payment of all taxes and approved  
3 expenses of Administration. The rate of recovery is  
4 approximately 14.03% of the original investment.

5 D. The Special Tax Administrator has estimated that  
6 federal income taxes, penalties and interest ("Taxes") of  
7 \$165,000.00 are or may be due from the Fund for late tax  
8 payments and tax return filings (previously reported).

9 E. Damasco and Associates ("Damasco") is the duly  
10 Court appointed Special Tax Administrator herein and has  
11 prepared or will prepare the Federal "Settlement Fund" Income  
12 Tax Returns for the Fund for the tax year(s) 2009 and 2010  
13 and will perform other tax related services. Damasco will  
14 separately submit its final fee application for its services  
15 rendered to date and projected through 2010 to conclude the  
16 estate`s tax issues.

17 F. Agent submits his second and final accounting  
18 herein for the Fund`s receipts and disbursements to date.

19 G. Agent requests orders discharging and  
20 exonerating him (and his employees) from liability for said  
21 claims administration upon his performance and completion of  
22 the distribution plan and disbursement of all CTI Restoration  
23 Funds as directed by the Court.

24 H. Agent requests orders discharging Damasco from  
25 liability for its services upon its performance and  
26

1 completion of its duties herein.

2           Said motion is further based on the attached  
3 declaration of Richard Weissman, and the exhibits filed  
4 therewith, the May 10, 2007 Order Appointing Distribution  
5 Agent, the Minute Order entered on May 26, 2009, and the  
6 other Orders and the Revised Judgment on file herein, and  
7 upon such additional competent oral and documentary evidence  
8 as may be timely presented to the Court for consideration.  
9

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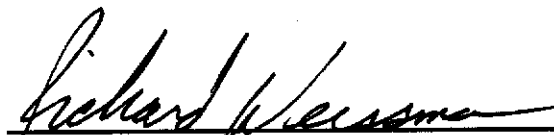
11 DATED: February 16, 2010

Respectfully submitted,

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RICHARD WEISSMAN  
Distribution Agent

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Declaration of Richard Weissman	Page 23

## EXHIBITS

Appointment Order (5/10/2007)	Exhibit "A"
Minute Order (5/26/2009)	Exhibit "B"
Approved Eligible Claimant(s)	Exhibit "C"
Signed Green Card Receipt-No Claim Filed	Exhibit "D"
Returned Certified Mail-No Claim Filed	Exhibit "E"
Forwarding Letter Program/Mailed Claim Package	Exhibit "F"
Undeliverable Mailing (No FLP)	Exhibit "G"
Partially a Wholly Denied Claims	Exhibit "H"
Income/Expense Statement 9/17/08 through December 31, 2009	Exhibit "I"
Post-Order Administration Expenses	Exhibit "J"

1           **DISTRIBUTION AGENT'S FINAL REPORT ON CLAIMS**

2           **ADMINISTRATION**

3           **INTRODUCTION**

4           1. The duly serving Distribution Agent ("Agent") herein,  
5 Richard Weissman, was appointed as Agent by the Court on May  
6 10, 2007, the Honorable Percy Anderson, Judge Presiding  
7 ("Appointment Order"). A true and correct copy thereof is  
8 filed herewith, marked as exhibit "A", and made a part  
9 hereof. Agent is informed that the Court entered, on or  
10 about May 3, 2004, a Revised Final Judgment of Permanent  
11 Injunction, Disgorgement, Prejudgment Interest and Civil  
12 Penalties Against Defendants Currency Trading International,  
13 Inc., Brian R. Moore, Craig A. Cunningham, James R. Kelsall,  
14 and Christian J. Weber. Agent was appointed to administer a  
15 claims program and distribute disgorged funds obtained from  
16 some and all of the defendants.  
17  
18  
19

20           **BACKGROUND**

21           2. Defendants Currency Trading International, Inc.  
22 ("CTI"), Brian R. Moore, Craig A. Cunningham, Craig Wiginton,  
23 James R. Kelsall, Christian J. Weber, and Robert Shane Jones  
24 (collectively "Defendants") were held liable by this Court  
25 for violations of securities laws after a bench trial. The  
26 Court entered a judgment for a permanent injunction,  
27 disgorgement of unjust profits, prejudgment interest, and  
28



1 civil penalties. (See Docket No. 239.) A previously filed  
2 civil anti-fraud injunction action in the United States  
3 District Court for the Northern District of Ohio against  
4 substantially the same Defendants resulted in the "CTI  
5 Restoration Fund" ("Fund"). The Fund was levied upon by the  
6 SEC for this action, to be distributed to investors that  
7 Defendants defrauded. In order to effectuate the  
8 distribution, the Court appointed Agent in its May 10, 2007  
9 Order ("Appointment Order"). (See Docket No. 264; Exhibit A).  
10 The Fund remained with the Court Registry Investment  
11 Services, in the Northern District of Ohio, until September  
12 17, 2008, when the Fund, comprised of \$2,556,286.48, was  
13 remitted to Agent. The Appointment Order provided that Agent  
14 was to invest and manage the Fund, process claims, create a  
15 distribution plan, and provide the Court with periodic  
16 updates. It also appointed Damasco & Associates ("Damasco")  
17 as Special Tax Administrator.

18  
19  
20 3. On March 18, 2009, Agent filed his Motion for Orders  
21 (1) Approving he Priority Claim of Paul and Michael Senko and  
22 Payment Thereof; (2) Authorizing Payment of Income Taxes Due  
23 By Settlement Fund; (3) Approving and Awarding Interim Fees  
24 of Special Tax Administrator Damasco and Associates; and (4)  
25 Approving and Awarding Interim Fees and Expenses of  
26 Distribution Agent and Authorizing Payment Thereon  
27 (hereafter, "First Report"). Agent now moves the Court for  
28

1 Orders (1) Approving the Distribution Agent`s Second and  
2 Final Report and Account on the Claims Administration Against  
3 Defendants; (2) Approving and Denying Claims and Approving a  
4 Proposed Final Distribution Plan and Payment to Approved  
5 Claimants; (3) Authorizing Payment of Income Taxes, Penalties  
6 and Interest Due by Settlement Fund; (4) Approving and  
7 Authorizing Payment of "Post Order" Distribution Fees and  
8 Expenses (5) Terminating the Claims Administration Estate and  
9 Discharging and Exonerating Distribution Agent and Special Tax  
10 Administrator; and, (6) For Further Instructions to  
11 Distribution Agent and Special Tax Administrator (hereafter,  
12 "Second Report").  
13

14         4. Agent stated in his First Report that he had prepared  
15 a "Notice of Last Day to File Claim" for May 31, 2009, and  
16 prepared other documents, which were posted on the SEC`s  
17 internet website on or about November 15, 2008. (Mot.,  
18 Weissman Decl. §§ 10, 14.) Agent prepared and mailed  
19 documents describing the claims process to all victims for  
20 whom addresses were known. However addresses for 348 victims  
21 that were originally identified by the SEC were unknown (Id.  
22 At §§ 11-13.) He obtained approval from the Court to seek the  
23 assistance of another government agency to contact the  
24 missing victims.  
25

26         5. This Second Report covers Agent's activities and  
27 conduct of the Claims administration program through the date  
28

1 hereof pursuant to the Appointment Order and as modified by  
2 the Court`s Minute Order entered on May 26, 2009, ("Minute  
3 Order"). A true and correct copy of said Minute Order is  
4 filed herewith, marked as exhibit "B", and made a part  
5 hereof.  
6

7  
8 **APPROVED PRIORITY CLAIM**

9 6. The previously reported claim filed jointly by  
10 Michael Senko and Paul Senko ("Senko") was approved by the  
11 Court for priority payment under the Minute Order. Said claim  
12 was paid to the Senkos in the sum of \$20,676.00, in full and  
13 final settlement and discharge of all of the Senko claims  
14 against CTI and its assets.  
15

16  
17 **REPORT ON CLAIMS ADMINISTRATION**

18 7. The Appointment Order directed Agent to undertake a  
19 claims procedure for the investor victims of the defendants  
20 ("Qualified Claimants") (Exhibit A, pp. 3-6, par. 3,  
21 inclusive). This procedure determined who would be eligible  
22 to receive a distribution of the funds disgorged by some or  
23 all of the defendants ("Eligible Claimants"). Agent received  
24 such disgorged funds from the US District Court, for the  
25 Northern District of Ohio, in the sum of Two Million Five  
26 Hundred Fifty-six Thousand Two Hundred Eighty-six and 48/100  
27 Dollars (\$2,556,286.48), as described in Agent`s First  
28

1 Report.

2 8. Agent initially prepared and mailed a "Notice of Last  
3 Day to File Claim" and other documents (collectively, "Bar  
4 Date Notice" or "Claim Forms") notifying CTI victims of the  
5 Court's claims program and advising that the last day by  
6 which to file a timely claim was May 31, 2009 (the "Bar  
7 Date").  
8

9 9. There were approximately 1311 investor victims  
10 originally ascertained by the SEC. The Bar Date Notice was  
11 mailed by certified mail, return receipt requested, to each  
12 of the approximately 964 known victims for whom addresses  
13 were identified by the SEC. No addresses were available for  
14 the balance of the known victims and no Claim Forms were  
15 mailed to these latter investors. The Claim Forms were also  
16 duly posted on the SEC website on or about November 15, 2008,  
17 to provide public constructive notice to potential Qualified  
18 Claimants of their right to file a claim. (First Report)  
19

20 10. Given that the original civil fraud case against  
21 CTI was commenced during 1998, the CTI records were quite  
22 "aged". Several hundred certified letters were returned as  
23 "undeliverable" by the United States Postal Service ("USPS").  
24 While the SEC estimated the investors' gross losses were  
25 approximately \$32 million, less than 100 persons had filed  
26 claims as of the First Report. In light of the magnitude of  
27 invalid addresses and the "light" claims response from  
28

1 investors who did receive the Bar Date Notice, the Court  
2 extended the claims period through August 31, 2009 ("Revised  
3 Bar Date"). This action facilitated Agent's efforts to  
4 communicate with as many potential CTI victims as reasonably  
5 possible.

6  
7 11. Pursuant to the Minute Order, Agent coordinated with  
8 another government agency to send the letter about the claims  
9 program to the last known address on file with that agency  
10 using the investors' Social Security Numbers ("Forwarding  
11 Letter Program" or "FLP"). The Court authorized such action  
12 and the payment of the applicable processing fee. The  
13 resulting investor response was substantial.

14  
15 12. 382 Claims, more than a three-fold increase in  
16 claims, were filed for losses in an aggregate amount of  
17 Fourteen Million Eight Hundred Eleven Thousand One Hundred  
18 Fifty-three and 26/100 Dollars (\$14,811,153.26).

19  
20 13. Six separate classes of claimants were derived from  
21 the claims program, as follows:

22 **A. Eligible Claimants:**

23 The first class consisted of 382 claims that were given  
24 full or partial preliminary approval by Agent. The victims  
25 within this class are denoted as "Eligible Claimants". Each  
26 filed a complete Proof of Claim form (POC) which was either  
27 fully or partially supported by competent evidence. The  
28

1 aggregate of such approved and "Eligible Claims" are in the  
2 sum of \$ 13,398,699.84. These fully and partially approved  
3 claims are set forth in a schedule filed herewith, marked as  
4 exhibit "C", and made a part hereof.

5 Exhibit C contains the approved Eligible Claimant(s)  
6 name(s), and the amount of the claim receiving Agent's  
7 preliminary approval. Exhibit C also sets forth the prorated  
8 percentage that each such claim bears to the total of all  
9 approved, Eligible Claims. It is that percentage that Agent  
10 recommends be applied to the amount of the Fund available for  
11 distribution to compute the exact prorated dollar amount of  
12 payment to each Eligible Claimant. It is estimated that an  
13 individual distribution would be in an amount of \$148.90 per  
14 \$1,000.00 of approved claim (following deduction of proposed  
15 administrative fees and expenses and taxes and penalties,  
16 etc. Agent recommends to the Court that it approve the  
17 respective Eligible Claims as set forth in exhibit C.  
18  
19  
20

21 **B. Certified Mail Delivered - Unfiled Claims (with**  
22 **SSN)** :

23 The second class of claimants is comprised of persons who  
24 received the Bar Date Notices or Amended Bar Date Notices  
25 (collectively "Bar Date Notice") by certified mail and who  
26 nonetheless failed to file any claim. This class includes  
27 those persons whose mail was returned as "unclaimed" by the  
28

1 addressees. Agent's Staff re-mailed the Bar Date Notice by  
2 regular mail to persons whose certified package was  
3 "unclaimed" or "refused". Some of the reasons for the  
4 certified mail becoming "unclaimed" were: (a) people did not  
5 go to the Post Office timely to pick up the certified letter  
6 for which a "yellow notice slip" had been left at the address  
7 indicating the letter was being held by USPS; or (b) the  
8 "yellow notice slip" left by the Mail Carrier was blown away  
9 or removed by someone and the addressee was unaware of the  
10 Notice letter. There were 220 known claimants in this second  
11 class of claimants who either actually received the Bar Date  
12 Notice, or, if unclaimed, were sent a second Notice by  
13 regular mail. The estimated amount of their unfiled claims  
14 is \$3,826,570.85. This class is set forth by name and amount  
15 in the schedule filed herewith and marked as exhibit "D", and  
16 made a part hereof. Agent gave preliminary disapproval to  
17 these unfiled claims. Agent has possession of the certified  
18 mail "green receipt" cards for each of these claimants or has  
19 possession of the original envelope which bears a USPS  
20 marking that the letter was "unclaimed" or "refused". Most,  
21 if not all, of these investors were included in the FLP and  
22 were sent (uncertified) letters by said government agency,  
23 thus got a second "bite at the apple" to file a claim.

24  
25  
26  
27 **C. Undeliverable Certified Mail (with SSN):**  
28

1           The Bar Date Notice was sent to this class by Certified  
2 Mail but was returned by USPS as undeliverable due to an  
3 incorrect or unforwardable address. Agent has possession of  
4 each of the returned envelopes. Agent had Social Security  
5 Numbers (SSN) for these Qualified Claimants and they were  
6 included in the FLP. If they did not respond to the FLP, they  
7 were included in the larger class of unfiled claims under  
8 Exhibit D. A schedule of the names of the 252 victims to whom  
9 the certified letters could not be delivered is filed  
10 herewith, marked as Exhibit E, and made a part hereof. The  
11 magnitude of losses of such unfiled claims is in the  
12 aggregate sum of \$5,218,166.73.  
13

14  
15  
16           **D. Forwarding Letter Program ("FLP"):**

17           The Qualified Claimants for whom Agent had Social  
18 Security Numbers (SSN) were sent letters through the  
19 Forwarding Letter Program ("FLP"), as stated. Among those  
20 responding were fifty (50) people who had not previously  
21 received the Bar Date Notice by mail. In turn, Staff sent  
22 these investors a Bar Date Notice and Claims Forms by regular  
23 mail. Notwithstanding these communications, these fifty (50)  
24 claimants did not file a claim. A schedule of these investors  
25 is filed herewith, marked as Exhibit F, and made a part  
26 hereof. Their estimated claims were in the sum of  
27 \$719,587.90.  
28



1           **E. Invalid/Unknown Addresses (No SSN):**

2           The CTI records the SEC provided to Agent had 433 names  
3 of investors for whom there were either no addresses at all,  
4 or the addresses on file were inadequate to mail and thus  
5 undeliverable. No SSNs were available for these investors.  
6 The persons to whom no mailing could be achieved are set  
7 forth in a schedule filed herewith, marked as exhibit "G",  
8 and made a part hereof. Notice of the Bar Date was thus  
9 provided to them only constructively through the posting of  
10 the Bar Date Notice on the SEC's website, as previously  
11 reported. The losses related to these unfiled claims are  
12 estimated to be in an amount of \$7,396,730.85.  
13

14  
15           **F. Unsupported Excessive Claims**

16           This sixth and last class of claimants is comprised of  
17 persons whose claims exceeded the losses ("Excess Claim")  
18 documented by CTI and SEC records and who did not submit to  
19 Agent competent proof supporting the excess losses claimed.  
20 All filed claims were approved up to the amount of loss  
21 documented in the CTI/SEC records, without further proof.  
22 Only the excess amount of the claim was at issue.  
23

24           Each person filing an Excess Claim was given electronic  
25 or traditional written notice of the deficiency and what type  
26 of documentation would be required to prove the portion of  
27 the claim in dispute. Agent's Staff made multiple  
28

1 (unsuccessful) efforts to obtain such necessary evidence from  
2 many claimants so as to position their claims for approval.

3 The Claimants who did not prove up their Excess Claim of  
4 damages are set forth in a schedule filed herewith, marked as  
5 exhibit "H", and made a part hereof. Within this claimant  
6 class there were some investors who actually obtained a  
7 profit from their CTI investments and still filed claims.  
8 Agent denied these claims. Exhibit H sets forth the  
9 Claimants' names, original claim amounts, the approved amount  
10 of claim and the amount of the denied "excess" claim. The  
11 gross amount of the filed claims by this class is in the  
12 aggregate sum of \$2,927,168.38. The partially approved  
13 claims are in the sum of \$1,925,562.42, which are also  
14 reflected within the Approved Claims under exhibit C. The  
15 amount of claims Agent partially or fully denied are in the  
16 sum of \$1,010,548.13.

17  
18  
19 14. Agent recommends to the Court that it approve and  
20 disapprove (deny) the subject claims as follows:

21 A. Approve duly filed Eligible Claims as set  
22 forth in exhibit C (column 5), in the approximate sum of  
23 \$13,398,699.84.

24 B. Deny in their entirety all unfiled claims of  
25 investors who received the Bar Date Notice either by  
26 certified mail or FLP as set forth in exhibits D, E and F,  
27 respectively, in the estimated aggregate sum of  
28

1 \$9,764,325.48.

2 C. Deny all claims of otherwise Qualified  
3 Claimants for whom no SSNs was available and whose addresses  
4 were invalid or unknown, resulting in no claims filed by  
5 them, as set forth in Exhibit G. The aggregate of such claims  
6 is in the sum of \$7,396,730.85.

7  
8 D. Deny each unsupported "excess" damages claim  
9 as set forth in exhibit H (column 5), which are collectively  
10 in the sum of \$1,010,548.13.

11 The foregoing constitutes Agent's full report on the  
12 claims administration program. Agent requests the Court to  
13 review and approve, or modify, the Report as it determines  
14 appropriate.

15  
16  
17 **SETTLEMENT FUND TAXES**

18 15. Agent has been informed by Jude P. Damasco, of  
19 Damasco and Associates ("Damasco"), the duly appointed  
20 Special Tax Administrator in this action, pursuant to the  
21 Appointment Order (Exhibit A, P. 7:21-26) that he has  
22 determined that the Fund will not have any tax liability for  
23 the tax years 2009 and 2010.

24 16. The First Report stated that approximately ten years  
25 of taxes (\$187,228) had not been paid on account of the Fund  
26 while on deposit in the Court's Registry in the Northern  
27 District of Ohio. This Court authorized said payment and  
28

1 said taxes were paid. Agent now advises the Court that the  
2 IRS has assessed penalties and interest ("Penalties") and  
3 additional taxes to the Fund arising from the non-payment of  
4 taxes over said 10 year period, in the approximate amount of  
5 \$165,000.00, if paid by June 30, 2010. Damasco has appealed  
6 the assessment and applied for a refund of some taxes  
7 previously paid. Damasco and Agent recommend to the Court  
8 that said sum be paid as soon as possible pending the IRS`  
9 ruling on the appeal. The payment will stop the accrual of  
10 interest on the assessed penalties and taxes. If the appeal  
11 is successful, there will be potentially a refund of  
12 approximately \$90,000 of interest and penalties. Such funds  
13 would be added to the Fund available for distribution  
14 provided the refund occurred prior to the actual disbursement  
15 of the Fund.  
16  
17

18 17. Damasco has advised Agent that the money disgorged  
19 by the defendants included pre-judgment interest. It also  
20 advised that such pre-judgment interest is deemed taxable  
21 when distributed to victim investors and ordinarily the Agent  
22 would be required to prorate such interest among the victims  
23 and report such interest allocation to the IRS. However, in  
24 this situation, not all of the judgments were fully satisfied  
25 by the defendants. Therefore, the distributions herein  
26 arguably do not disburse the pre-judgment interest. In  
27 consequence, the nature of the disbursed prorated shares will  
28

1 be considered as principal only, without any pre-judgment  
2 interest, and will not require any taxable income reports  
3 (1099 Misc.) to the IRS for any investor.  
4

5 **SECOND ACCOUNTING**

6  
7 18. The First Report accounted for receipt of the sum of  
8 Two Million Five Hundred Fifty-six Thousand Two Hundred  
9 Eighty-six and 48/100 Dollars (\$2,556,286.48) from the US  
10 District Court for the Northern District of Ohio, on  
11 September 17, 2008. The Court approved payment of the Taxes  
12 and the administrative costs, and interim fees and expenses  
13 of the Special Tax Administrator and the Distribution Agent  
14 and Agent`s First Report (Minute Order, Exhibit B), p. 4)

15  
16 19. A summary schedule of the receipts and disbursements  
17 of the CTI Restoration Fund from September 17, 2008 through  
18 December 31, 2009 is filed herewith and marked as exhibit I.  
19 Detailed Income and Disbursements Journals supporting said  
20 Summary are also filed herewith and are collectively made a  
21 part of exhibit I. Said receipts and disbursements are  
22 summarized as follows:

23 RECEIPTS: 9/17/08 - 12/31/09

24 US DISTRICT COURT (OHIO) TRANSFER:

25  
26  
27 Principal \$2,556,286.48  
28 Interest \$1,842.09

1	Total	\$2,558,128.57
2	CTI Interest-Agent	<u>\$5,809.40</u>
3	TOTAL RECEIPTS: (12/31/09)	<u>\$2,563,937.97</u>
4		
5	DISBURSEMENTS: 9/17/08 - 12/31/09	
6	EXPENSE	
7		
8	Income Tax Liability	\$187,228.00
9	Senko Claim	\$20,676.00
10	Special Tax Administrator	\$18,487.44
11	Operating Expenses	\$14,139.00
12	Distribution Agent	\$33,521.33
13	Agent`s Staff/Accounting	<u>\$60,847.01</u>
14	TOTAL DISBURSEMENTS:	<u>\$334,898.78</u>
15		
16		
17	NET FUNDS ON DEPOSIT (12/31/09)	\$2,229,039.19

18

19 20. The above summary is supported by a detailed

20 cumulative Income and Expense Statement and detailed receipts

21 and disbursements journals for the aforesaid fiscal term.

22 Copies thereof are filed herewith, collectively filed as

23 Exhibit I, and made a part hereof. Also a part of Exhibit I

24 is a Summary of Income and Expenses presented on a form

25 required by the SEC and which comports with its accounting

26 report guidelines. The foregoing summary and Exhibit I

27 constitute Agent's full accounting for his administration of

28

1 the CTI Restoration Fund through December 31, 2009.

2  
3 PETITION FOR POST-ORDER FEES AND DIRECT EXPENSES

4 21. Agent`s Petition for fees and expenses of Agent and  
5 of the Special Tax Administrator covering the claims  
6 administration and tax related services performed from May  
7 10, 2007 through the date hereof will be separately but  
8 concurrently filed herewith. This Petition presents for  
9 approval only the estimated "Post-Order" fees and expenses to  
10 fully implement the Court`s distribution plan hereafter.

11  
12 22. Agent estimates the fees and expenses for such  
13 services, and requests an award therefor, as follows:

14 (a) Agent`s Accountant: Preparation of the  
15 distribution checks: 78 hours are estimated for said  
16 services. An amount of \$3,120, is requested therefor at a  
17 rate of \$40.00 per hour (See Exhibit J, (3)). Accountant  
18 oversight: 10 hours, at \$95.00 per hour, for a total of  
19 \$950.00 (Exhibit J (3)).

20  
21 (b) The direct postage and mailing costs of said  
22 checks are estimated to be \$172.00 [envelopes and postage].  
23 (Exhibit J(2))

24 (c) Torrey Pines Bank has a check fraud prevention  
25 program known as "Positive Pay", which prevents the cashing  
26 of checks that have been altered by amount and/or payee. The  
27 cost thereof is approximately \$800.00 for this distribution  
28

1 program. (See Exhibit J (6)).

2 (d) Accounting Services: Reconciling the Fund bank  
3 account for a period of seven (7) months, preparing six (6)  
4 monthly and a final reconciliation and financial report for  
5 review and approval by the SEC, and issuing a final  
6 distribution check to the US Treasury of the balance of funds  
7 remaining on deposit, if any. Thirty (30) hours are estimated  
8 for these services at the rate of \$95.00 per hour for a total  
9 of \$2,850.00. (Exhibit J (5))

11 (e) Accounting Services preparing data for income  
12 tax returns to be prepared by the Tax Administrator: 18 hours  
13 at blended rate of \$80.00 per hour, for a total of \$1,440.00  
14 (Exhibit J (4)).

15 (f) Paralegal Staff: 30 hours for Post-Order  
16 administration, chargeable at \$65 per hour, totaling  
17 \$1,950.00. (Exhibit J (9))

19 (g) Agent estimates up to ten (10) hours for his  
20 Post-Order services. The foregoing does not include any of  
21 Agent's services relating to Post-Order litigation or an  
22 appeal of the Court's orders. Agent requests approval of said  
23 fees at his hourly rate of \$295.00, not to exceed \$2,950. A  
24 miscellaneous expense reserve is recommended at \$1,000.

25  
26 23. Agent requests approval of the estimated accounting  
27 fees of Damasco for preparation of the two Settlement Fund  
28 Income Tax Returns by Damasco & Associates for 2009 and 2010,



1 at their contract rate of \$1,675 each, in an amount not to  
2 exceed \$3,350.

3 24. Agent requests a Tax Reserve of \$165,000.00, and  
4 authority to pay said sum forthwith on account of the  
5 currently assessed taxes penalties and interest.

6 25. Agent requests the Court to approve and award the  
7 estimated Post-Hearing taxes, fees and direct reimbursable  
8 expenses of both Agent and Damasco in the estimated sum of  
9 \$184,220.00, recapitulated (Exhibit J) as follows:  
10

11	Distribution: Postage, etc. Exhibit J(1)(2)	\$638.00
12	Check Preparation & Oversight Exhibit J(3)	\$4,070.00
13	Monthly and Final Accounting (Exhibit J(5))	\$2,850.00
14	Positive Pay - Fraud Protection Exhibit J(6)	\$800.00
15	Income Tax Data Preparation Exhibit J(4)	\$1,440.00
16	Paralegal Staff Fees (30 hours) Exhibit J(9)	\$1,950.00
17	Administrative Expense Reserve Exhibit (7)	\$1,000.00
18	Damasco Tax Returns Exhibit J(8)	\$3,350.00
19	Distribution Agent Fees	<u>\$2,950.00</u>
20	<b>TOTAL POST-HEARING FEES/EXPENSES</b>	<u><b>\$19,220.00</b></u>
21	Tax Reserve/Payment	\$165,000.00
22	<b>TOTAL EXPENSES AND TAXES</b>	<b>\$184,220.00</b>
23		
24		
25		

26 **DISTRIBUTION PLAN**

27 26. The net distributable funds to the investors whose  
28 filed claims were approved (Eligible Claims) are in the net

1 amount of \$1,995,001.73, after deduction of the requested  
2 Pre-Order and Post-Order administration fees and expenses and  
3 taxes which are in the net sum of \$568,936.24. This is an  
4 approximate recovery of 14.30% or \$143.00 per \$1,000.00 of  
5 their original investments. Said computation is as follows:

6	Gross Receipts:	\$2,563,937.97
7	Administration/Tax Expenses	\$568,936.24
8		
9	NET DISTRIBUTABLE FUNDS:	\$1,995,001.73

10  
11 27. To the extent the Post-Order fees and direct  
12 expenses and Tax Penalties are less than estimated, Agent  
13 will endeavor to increase the amount of distribution to the  
14 Eligible Claims. The net amount held at the completion of  
15 administration, if any, will be distributed to the United  
16 States Treasury (including amounts of undeposited investor  
17 checks), as provided in the May 10, 2007 Order (Exhibit A, p.  
18 6, par. 3 (1)), or as the Court may otherwise direct. Agent  
19 will serve the Post-Order accountings and statements of fees  
20 and expenses only upon the SEC for its review. Subject to  
21 specific objections served on Agent by the SEC, within ten  
22 (10) days of Agent's service of the accounting and fees  
23 statements, Agent will make payment thereon from the Fund.  
24

25 28. A proposed Order will be lodged with the Court in  
26 accordance with the Federal Rules of Court and Local Rules.  
27

28 29. In the event the Tax Penalties are abated by the IRS

1 after the Fund is disbursed, Agent requests instructions  
2 whether he should make a second distribution to the Eligible  
3 Claimants of such abated amount, and requests instructions  
4 regarding what the minimum (threshold) amount of such  
5 distribution should be per Eligible Claimant. As well, what  
6 should happen to the prorated share of a Claimant if it is  
7 below such minimum. For example, if the minimum disbursement  
8 amount is \$25.00, what should be done with a prorated share  
9 of \$15.00 or \$20.00? Should it augment the Fund and be  
10 disbursed ratably as part of the second distribution? Or,  
11 should said de minimus amount(s) be retained and disbursed to  
12 the US Treasury.  
13

14 29. Agent requests such further instructions as the  
15 Court deems necessary and appropriate to enable completion  
16 and closure of the administration of the Fund and to  
17 effectuate the final release and discharge of Agent, Damasco  
18 and their respective employees from liability for the  
19 administration hereof, according to law.  
20

21 Dated: February 16, 2010

Respectfully submitted,

22  
23 

24 Richard Weissman  
25 Distribution Agent  
26  
27  
28

DECLARATION OF RICHARD WEISSMAN

I, RICHARD WEISSMAN, declare

1. I am over the age of eighteen years and competent to testify to the following facts of my own personal first-hand knowledge, except as to those facts of which I am informed by others, and as to those facts I believe them to be true and correct. I could and would testify to said facts if called as a witness thereto. I am the duly serving Distribution Agent ("Agent") in this action pursuant to Court appointment on May 10, 2007, by the Honorable Percy Anderson, Judge Presiding ("Appointment Order"). I am informed that the Court entered, on or about May 3, 2004, a Revised Final Judgment of Permanent Injunction, Disgorgement, Prejudgment Interest and Civil Penalties Against Defendants Currency Trading International, Inc., Brian R. Moore, Craig A. Cunningham, James R. Kelsall, and Christian J. Weber.

2. I prepared the foregoing Motion and personally know the contents and subject matter thereof. The documents and records filed herewith as exhibits in support of the motion were prepared either by me or my paralegal and accounting staff under my supervision, all of whom are my employees. All of said documents have been prepared in the ordinary course of business in the administration of the aforesaid Court directed claims administration program and are maintained at my office as business records under my direction and

1 supervision.

2 3. I performed the services reported in said Second and  
3 Final Report or supervised the services rendered by my  
4 employees.

5 4. I am an attorney licensed to practice law in all of  
6 the Courts of the State of California, as well as admitted to  
7 practice before the United States District Court for the  
8 Central District of California, as well as other Districts of  
9 said Court.  
10

11 I declare under penalty of perjury pursuant to the laws  
12 of the United States of America that and the State of  
13 California the foregoing is true and correct.

14 Executed on February 16, 2010, at Los Angeles, California  
15

16  
17   
18 Richard Weissman

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 PROOF OF SERVICE

2 I am employed in the County of Los Angeles, State of  
3 California. I am over the age of 18 years and not a party to the  
4 within action. My business address is 12121 Wilshire Blvd., Suite  
5 600, Los Angeles, California 90025.

6 On February 17, 2010, I served the foregoing document  
7 described as NOTICE OF MOTION AND MOTION BY DISTRIBUTION AGENT FOR  
8 ORDERS: (1) APPROVING THE DISTRIBUTION AGENT'S SECOND AND FINAL  
9 REPORT AND ACCOUNT ON THE CLAIMS ADMINISTRATION AGAINST DEFENDANTS;  
10 ETC. on the interested party(ies) in this action:

11 SEE ATTACHED SERVICE LIST

12 [ X ] by placing [ ], the original [ x ] a true copy(ies)  
13 thereof enclosed in sealed envelope(s) addressed as  
14 follows:


15 [ x ] (BY MAIL and ELECTRONIC MAIL) I deposited such  
16 envelope(s) in the mail at Los Angeles, California. The  
17 envelope(s) was/were mailed with postage thereon fully  
18 prepaid as follows: I am "readily familiar with the  
19 firm's practice for collection and processing of  
20 documents for mailing. Under that practice, it would be  
21 deposited within the United States Postal Service, on  
22 that same day, with postage thereon fully prepaid at Los  
23 Angeles, California in the ordinary course of business.  
24 I am aware that on motion of the party served, service is  
25 presumed invalid if postal cancellation date or postage  
26 meter date is more than one (1) day after date of deposit  
27 for mailing in affidavit.

28 [ ] (BY TELECOPIER) I caused each document to be sent via  
telecopier to: see above

[ ] (STATE) I declare under penalty of perjury under the  
laws of the State of California that the above is true  
and correct.

[ X ] (FEDERAL) I declare that I am employed in the office of  
a member of the bar of this court at whose direction the  
service was made.

Executed at Los Angeles, California on February 17, 2010.

25   
26 Maria E. Byciuk

SERVICE LIST FOR  
SEC V. CURRENCY TRADING INTERNATIONAL, INC. Et al.

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