

ROBB EVANS & ASSOCIATES, LLC

Receiver of

Forex Liquidity LLC

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U.S. Commodity Futures Trading Commission v. Forex Liquidity LLC
CASE No. SACV-07-01437 CJC (RNBx)

**The Receiver's Status Report and Request for Further Hearing Regarding
Robert Gray's Contempt of Court**

Filed September 22, 2009

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

FOREX LIQUIDITY LLC,

Defendant.

CASE NO. SACV07-1437 CJC (RNBx)

[Honorable District Court Judge
Cormac J. Carney]

THE RECEIVER'S STATUS REPORT
AND REQUEST FOR FURTHER
HEARING REGARDING ROBERT
GRAY'S CONTEMPT OF COURT

1 Robb Evans & Associates LLC (the "Receiver"), as receiver for Forex
2 Liquidity, LLC ("FXLQ"), respectfully submits the following status report and
3 request for a further hearing.

4 At the last hearing in this matter on September 3, 2009, the Court scheduled a
5 further hearing for September 10, 2009. The purpose of the continuance was to
6 allow time for contemnor Robert Gray ("Gray") to retain new counsel (which would
7 happen within approximately one week, according to Gray). Gray and his new
8 counsel were to meet with the Receiver and plaintiff Commodity Futures Trading
9 Commission (the "CFTC") to, among other things, verify the location of the funds
10 that are the subject of these contempt proceedings and to determine how they would
11 be returned to the receivership estate.

12 By September 8, 2009, Gray had not retained new counsel.¹ On September 8,
13 2009, the parties were informed by the Court that the hearing scheduled for
14 September 10, 2009, was taken off calendar. The parties' attorneys were ordered to
15 meet and confer, and to advise the Court about a mutually convenient hearing date
16 within the following three weeks.

17 There has been no progress since then. On September 10, 2009, the
18 Receiver's counsel, Mr. Arthur, contacted Gray by email and requested that Gray's
19 new counsel contact Mr. Arthur so that a conference call among all counsel could be
20 arranged. *See*, the accompanying declaration of Thomas S. Arthur (the "Arthur
21 Declaration"), ¶ 2.

22 On September 13, 2009, Gray sent an email to Mr. Arthur stating that he had
23

24 ¹ Gray did meet with the Receiver on September 8, 2009 (without counsel for
25 any party being present), but no answers were provided regarding the location of the
26 \$7.1 million held by Gray's company, Pro Fi, or how those funds (or any other
27 funds) would be returned to the estate. Neither did Gray produce the books and
28 records of Pro Fi. The Receiver is independently attempting to obtain Pro Fi's books
and records.

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1 not retained counsel, but that he was "working on the counsel retainer." Arthur
2 Declaration, ¶ 3.


3 On September 14, 2009, Mr. Arthur again contacted Gray by email and
4 requested that Gray's counsel contact him immediately. Mr. Arthur advised Gray
5 that he wanted to advise the Court by September 15, 2009, about a new hearing date.
6 Mr. Arthur further advised Gray that if he did not hear from Gray's counsel, Mr.
7 Arthur would coordinate dates with the CFTC and request a date from the Court in
8 the immediate future. Arthur Declaration, ¶ 4.

9 On September 15, 2009, Gray sent an email advising Mr. Arthur that he still
10 had not retained counsel. Instead, Gray requested that September 29, 2009, be "a
11 meet and confer date." Arthur Declaration, ¶ 5.

12 As of the date of this status report, Gray has not, to the Receiver's knowledge,
13 retained counsel. Nothing has been done by Gray to provide answers regarding the
14 funds that belong to the receivership estate or how they will be returned. Arthur
15 Declaration, ¶ 6.

16 The Receiver respectfully requests that the Court now set a further hearing
17 regarding Gray's contempt of court because the Receiver is convinced that no
18 progress will be made unless and until the parties are in court. The Receiver would
19 like to examine Gray, under oath, at the next hearing regarding the assets of the
20 receivership estate and his failure to comply with the Court's orders. The Receiver
21 believes that no progress will be made otherwise.

22
23 Dated: September 22, 2009 FRANDZEL ROBINS BLOOM & CSATO, L.C.

24
25 By: 
26 THOMAS S. ARTHUR
27 Attorneys for ROBB EVANS &
28 ASSOCIATES LLC

1 DECLARATION OF THOMAS S. ARTHUR

2 I, Thomas S. Arthur, declare:

3 1. I am an attorney at law licensed to practice law in California. I am a
4 member of Frandzel Robins Bloom & Csato, L.C., attorneys for Robb Evans &
5 Associates L.C. (the "Receiver"). I am one of the attorneys in my firm who is
6 primarily responsible for representing the Receiver in this action. As such, I am
7 personally familiar with the facts set forth in this declaration and could competently
8 testify thereto.

9 2. On September 10, 2009, I contacted Robert Gray ("Gray") by email and
10 requested that Gray's new counsel contact me so that a conference call among all
11 counsel could be arranged.

12 3. On September 13, 2009, Gray sent me an email stating that he had not
13 retained counsel, but that he was "working on the counsel retainer."

14 4. On September 14, 2009, I again contacted Gray by email and requested
15 that Gray's counsel contact me immediately. I advised Gray that I wanted to advise
16 the Court by September 15, 2009, about a new hearing date. I further advised Gray
17 that if I did not hear from Gray's counsel, I would coordinate dates with plaintiff
18 Commodity Futures Trading Commission (the "CFTC") and request a date from the
19 Court in the immediate future.

20 5. On September 15, 2009, Gray sent an email advising me that he still
21 had not retained counsel. Instead, Gray requested that September 29, 2009, be "a
22 meet and confer date."

23 6. As of the date of this status report, Gray has not, to my knowledge,
24 retained counsel. Nothing has been done by Gray to provide answers regarding the
25 funds that belong to the receivership estate or how they will be returned.

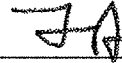
26 7. I have conferred with counsel for the CFTC and we are available on
27 September 30, 2009.

28 8. I have emailed a copy of this status report, and the proposed order

1 accompanying this report, to Gray and I have caused a copy to be sent by overnight
2 mail to Gray at his last known address.

3 Executed this 22nd day of September, 2009, at Los Angeles, California.

4 I declare under penalty of perjury under the laws of the United States of
5 America that the foregoing is true and correct.



THOMAS S. ARTHUR

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