

**ROBB EVANS & ASSOCIATES LLC**

**Receiver of**

**BC Capital Group S.A., et al.**

**Case No. 1:12-cv-07127**

**MODIFIED REPORT OF RECEIVER’S ACTIVITIES  
JANUARY 18, 2013 THROUGH NOVEMBER 22, 2013**

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<b>Exhibit No.</b>	<b>Description</b>
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**ROBB EVANS & ASSOCIATES LLC**  
**Receiver of**  
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**Case No. 1:12-cv-07127**

**MODIFIED REPORT OF RECEIVER'S ACTIVITIES**  
**JANUARY 18, 2013 THROUGH NOVEMBER 22, 2013**

This report covers the activities of the Receiver<sup>1</sup> since its last report as of January 17, 2013. This is the second Report to the Court on the progress of the receivership. It does not constitute an audit of financial condition and is intended only to provide information for use by the Court in assessing the progress of the receivership.

### **Overview**

The Receiver continued its financial accounting investigation to untangle the financial condition of the BC Common Enterprise entities, as directed by the Court. The Receiver and the Joint Official Liquidators (JOLs) appointed by the Chief Justice of the Bahamas Supreme Court have completed their financial accounting investigation on 66 investment portfolios managed by Nikolai Simon Battoo (Battoo), as well as, five Battoo-owned accounts, both under the custody of Alliance Investment Management Limited (Alliance). The Receiver has also completed an accounting from documents produced by Folio Administrators Ltd. (Folio)<sup>2</sup> in the British Virgin Islands that contain account statements of EFG Private Bank (Channel Islands) Ltd. (EFG) in the Bailiwick of Guernsey and other documents associated with Battoo's activities. The Receiver has also completed an accounting from documents turned over by Standard Chartered Bank Ltd. in Hong Kong and has determined there are no assets in Hong Kong. This report will present details of massive commingling of investor funds both at Alliance and EFG and between Alliance and EFG.

The Receiver has analyzed and reviewed thousands of documents, including accounting records, bank statements, email transmissions, advertising and promotion materials, and account-opening records signed by investors. From these studies, the Receiver has concluded that Battoo completed, directed, and controlled all operating, investing and financing activities of the BC Common Enterprise and the related investment companies.

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<sup>1</sup> Reference to the Receiver in this report means the Receiver, the Receiver's deputies, its staff, and its counsel.

<sup>2</sup> These documents were produced to the U.S. Securities and Exchange Commission (SEC). The SEC turned over the documents to the Receiver and advised the Receiver that the British Virgin Islands Financial Services Commission has no objection to the Receiver using any/all of the Folio documents in the Guernsey or U.S. proceedings.

His activities included the following:

- Marketing and promoting investment products and strategies directly to potential individual investors and investment advisors;
- Directing and controlling the actions of custodians, sub custodians and portfolio administrators to place funds in investment companies, transfer and commingle funds among investment companies and financial institutions, approve or deny redemption requests, suspend all redemption requests, and transfer millions of dollars to himself or to others for his personal benefit.

As a result of imposing his authority so completely and recklessly, corporate governance and observing corporate structures were ignored or abandoned.

Battoo and the BC Common Enterprise solicited at least \$340.0 million<sup>3</sup> from more than 800 investors<sup>4</sup>. Some of those funds were funneled through Alliance to EFG and some of those funds were sent directly by investors to EFG. While Battoo advertised himself as the Senior Investment Advisor for funds at EFG, this report will detail Battoo's control over all of the Funds<sup>5</sup> and describe Battoo's specific instructions to Alliance and EFG to complete investment and financial transactions, including at least \$45.7 million of payments to himself or for his benefit. In addition, this report will detail other massive misappropriations of investor funds by Battoo including Battoo's siphoning of approximately \$38.8 million in the form of "Management Fees." While directing payment of "Management Fees" aggregate investment losses under Battoo's direction and instruction as Senior Investment Advisor totaled at least \$56.0 million just on trading in Madoff feeder funds and leveraged fund-linked certificates, Phi R(squared) Series 1, 2 and 3. However, as detailed in the next paragraph, other documents available to the Receiver detail far greater losses than those documented by the currently available EFG documents.

Based on Receiver's review of books and records and other documents of various Battoo-operated/controlled hedge funds, cumulative losses on trading in Madoff feeder funds and Phi R(squared) Series structured notes under Battoo's control amounted to approximately \$98 million (Exhibit 1) and \$140 million (Exhibit 2), respectively, which aggregated to approximately \$238 million. In December 2008 Battoo informed the investors through Alliance that the impact of Madoff losses on them was very low. In October and December 2008, redemption suspension notices were issued to the respective shareholders suspending

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<sup>3</sup> The Receiver has located additional account documents from EFG and is seeking approval to use these documents. If those documents are available, the Receiver believes the amount of funds solicited by Battoo and the BC Common Enterprise will substantially increase.

<sup>4</sup> Some of these investors are institutional investors who likely invested funds on behalf of their clients. The Receiver has not yet identified all of the underlying investors. The number of investors most likely will increase when the institutional investors provide the underlying investor information in the future.

<sup>5</sup> In addition to instructing Alliance to invest in Funds held at EFG, Battoo paid the Funds' directors approximately \$1.1 million from his accounts at Alliance. Directors' fees should have been paid by the Funds, not from Battoo's accounts that were funded by diverted investor money.

all redemption rights from the respective Battoo-operated/controlled funds in connection with the losses on Phi R(squared) Series structured notes. Despite such losses, Battoo successfully lured additional investor funds of approximately \$52 million into Alliance and approximately \$10.6 million into EFG accounts subsequent to December 31, 2008.

Of the \$340.0 million of funds solicited by Battoo, at least \$119.5 million was paid back to investors. The following table details these two sums based on EFG bank statements and Alliance records:

	<u>Amount</u>
Total funds solicited from investors based on EFG statements provided by Folio	\$ 131,041,802.07
Less: Receipts funneled through Alliance based on EFG statements provided by Folio	<u>(8,150,000.00)</u>
Total funds solicited directly from investors based on EFG statements provided by Folio	\$ 122,891,802.07
Add: Total receipts from investors by Alliance, including \$8,150,000 above	<u>217,116,990.67</u>
Total funds solicited from investors	<u><u>\$ 340,008,792.74</u></u>

	<u>Amount</u>
Total payments to investors based on EFG statements provided by Folio	\$ 44,775,025.29
Less: Payments funneled through Alliance based on EFG statements provided by Folio	<u>(22,236,044.30)</u>
Total payments directly to investors based on EFG statements provided by Folio	\$ 22,538,980.99
Add: Total payments to investors by Alliance, including \$22,236,044.30 above	<u>96,942,484.00</u>
Total payments paid back to investors	<u><u>\$ 119,481,464.99</u></u>

In light of the massive losses on investments and misappropriation of investor funds by Battoo, these payments back to investors were made from the funds of other or later investors. This is one of the elements of a classic Ponzi scheme.

This report will document Battoo's misrepresentation of investment performance to the investors he solicited and to his independent accounting firms by overstating asset values by at least \$156.6 million at December 31, 2009.

Under Exhibits 3 through 16 are email letters to and from and about Battoo. The letters cover the period from February 2009 through August 2012. The letters include the following:

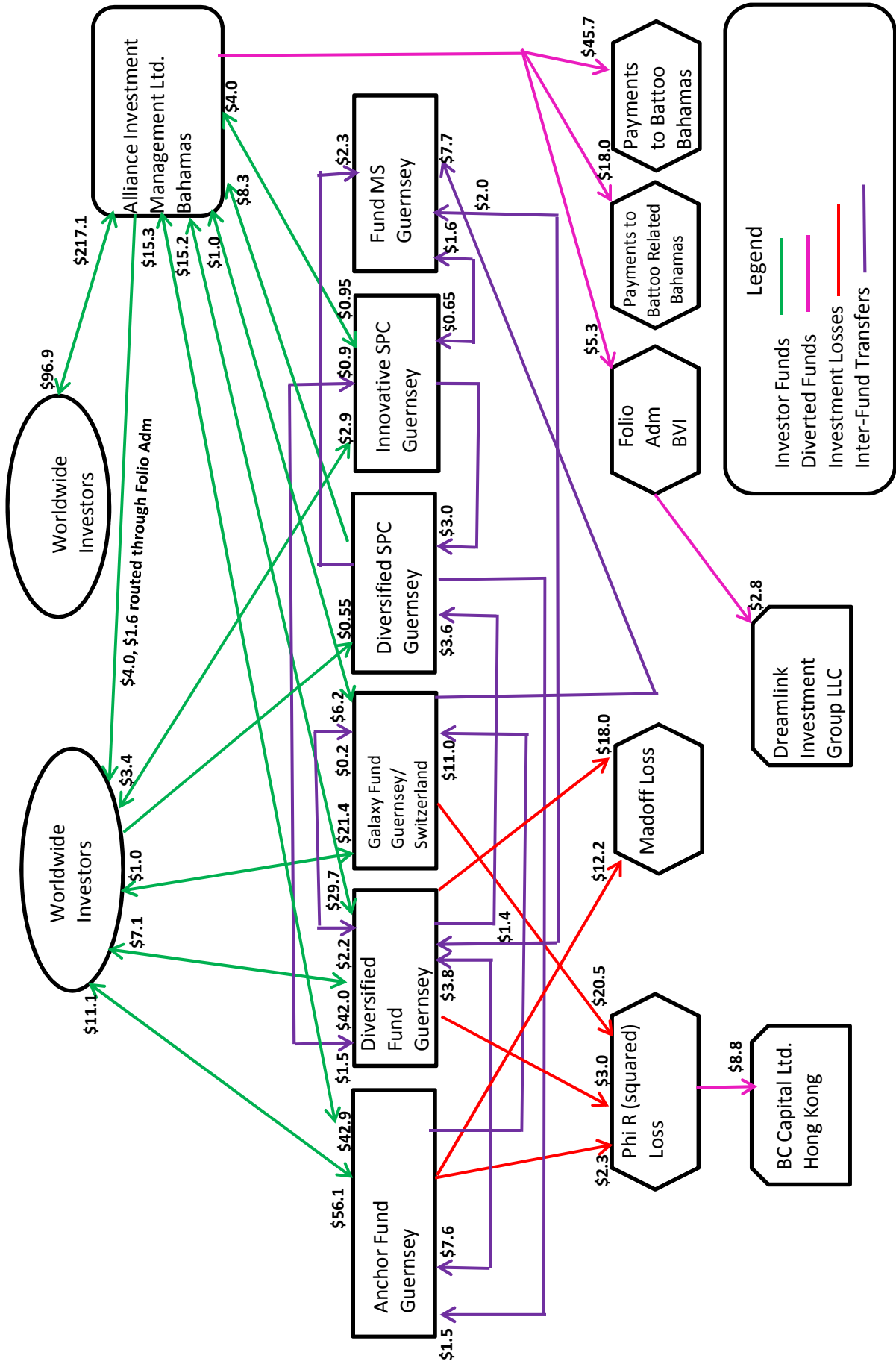
- Letters from Folio to EFG citing the authority of Battoo to receive information;
- Letter from Battoo to Folio authorizing investment redemption;
- Letters from Battoo to Folio directing payments and the use of sale proceeds;
- Authorization resolutions by directors of five BVI funds authorizing Folio to accept Battoo as an authorized signatory for any investment and bank account;
- Letters to Battoo from Folio requesting authorization to transfer money, approve expenses, and to approve closing an account;
- Letter from EFG to Battoo providing information about authorization requirements and offering assistance.

Battoo set up EFG as the center of his controlled financial scheme and directed funds in and out of EFG from investors and his controlled entities and institutions. Battoo's movement of these funds is fully documented in this report. Based on the review of bank statements of accounts of Battoo-operated/controlled funds at EFG and the related documents currently available to the Receiver, it is clear that Battoo operated these funds as one investment pool on a commingled basis.

On page 14 is a graph showing the flow of investor funds to and through EFG and Alliance. As shown on the graph, there was massive commingling of investor funds, irrespective of how those investor funds were sent to EFG.

The Receiver has obtained records of Alliance and completed a forensic accounting of 66 investment portfolios managed by Battoo and five Battoo-owned accounts. The Receiver has also completed a forensic accounting of EFG accounts associated with Battoo's activities based on the currently available EFG account records produced by Folio. The time periods of these EFG account records do not reflect the entire time period of the Alliance's records. Therefore, the Battoo's activities in the EFG accounts and in Alliance will be discussed in separate sections in this report.

The BC Capital Common Enterprise Worldwide Movement of \$340.0 Million in Commingled Funds  
\$ in Millions



## Activities and Accounts opened at EFG

### General and Organization

The following investment funds were formed in the BVI, and operated and controlled by Battoo:

- Anchor Hedge Fund Limited (Anchor Fund, formed on September 16, 2002)
- FuturesOne Diversified Fund Ltd. (Diversified Fund, formed on January 2, 2002)
- FuturesOne Diversified Fund SPC Ltd. (Diversified SPC, formed on February 16, 2010)
- FuturesOne Innovative Fund SPC Ltd. (Innovative SPC, formed on February 16, 2010)
- Phi R(squared) Investment Fund SPC Ltd. – Segregated Portfolio Master Series (Fund MS, formed on February 1, 2010)

Galaxy Fund Inc. (Galaxy Fund, formed in January 2000 in BVI) and Two Oceans Fund Ltd. (Two Oceans Fund, formed in BVI) were operated by Battoo.

As discussed in the first report to the Court, with a few exceptions for some other class subfunds, through in-specie transfers of assets/liabilities at their book values, Class A Subfund of Diversified Fund became Segregated Portfolio Series (SPS) A of Diversified SPC on June 1, 2010, and Class B, O and F1 Subfunds of Diversified Fund became SPS B, O and F1 of Innovative SPC on May 1, 2010. Therefore, Diversified Fund, in general, was “split-up” into two successor funds, Diversified SPC and Innovative SPC.

Two Oceans Fund surrendered its fund license and changed its name to Two Oceans Capital. The Receiver was initially told by Andrew Keuls, a director, that Two Oceans Capital is in wind-up mode and the net realizable value of assets to be liquidated is approximately \$750,000, of which approximately \$250,000 belongs to the PIWM/PIWM-I portfolios. According to the NAV report of Two Oceans Fund as of June 30, 2012 provided by Folio, the balance sheet of Two Oceans Fund shows \$677,115.63 in net asset value, which includes only \$66,798.82 in bank accounts as of June 30, 2012 (Exhibit 17). Therefore, the accounts of Two Oceans Fund at EFG are not further detailed in the report.

Alliance, the custodian of the 66 PIWM/PIWM-I Portfolios managed by Battoo and the five Battoo-owned accounts, invested the received investor funds predominantly in these Battoo-operated/controlled funds as instructed by Battoo. The shareholdings of the investments were registered in the name of Alliance.

A number of accounts were set up and opened at EFG for these six funds operated and/or controlled by Battoo with an exception of Two Oceans Fund, also collectively referred as “Battoo Funds” in this report.

Under Exhibit 18 is a list of the accounts opened for these Battoo Funds according to the records currently available to the Receiver. The Receiver has reviewed the bank account statements and other records of these Battoo Funds at EFG. The Receiver analyzed and reconstructed more than 2,800 transactions in these EFG accounts. More than 39 accounts were set up by Battoo, which were operated and used by Battoo as one investment pool on a commingled basis as described in this report.

**Consolidated Summary of Galaxy Fund, Anchor Fund, Diversified Fund, Diversified SPC, Innovative SPC, and Fund MS Operated as One Investment Pool**

Under Exhibit 19 is a consolidated summary of cash receipts and disbursements for the period from August 23, 2006 to September 13, 2012 of the six funds, operated and/or controlled by Battoo, excluding Two Oceans Fund, as one investment pool prepared by the Receiver based on bank records currently available to the Receiver. It is also summarized below.

The consolidated summary shows more than \$131.0 million in cash receipts deposited into these EFG accounts, which include \$122.9 million sent directly by the investors/participants and \$8.15<sup>6</sup> million funneled through Alliance to EFG. \$44.8 million out of \$131.0 million was returned to the investors, and \$69.3 million was used for the purchase of the investments.

According to the account statements of the Battoo Funds that are currently available to the Receiver, approximately \$15.9 million in total for these Battoo Funds remained at EFG as of September 13, 2012 as summarized and shown by each account in Exhibit 18.

Despite such significant losses in these investments made, Battoo still paid approximately \$5.5 million from these EFG accounts to Folio, of which \$3.3 million was paid to his account at Folio.

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<sup>6</sup> The \$8.15 million in receipts from Alliance did not mirror the sum of \$79.8 million from the Alliance's records as shown in the graph on the page 14 due to the unavailability of some EFG records to the Receiver. The sum of \$79.8 million of Alliance records does not include \$2.75 million to Two Ocean Fund Ltd. and \$400,000 to an unknown fund at EFG.



	<u>Consolidation of</u>	(in thousands)
	<u>the Batoo Funds</u>	
<b>CASH RECEIPTS:</b>		
Receipts from investors:		
Alliance	\$ 8,150	
UCA Ventures Ltd	35,000	
Oxford Fund Ltd	33,000	
Anchor Holdings, LLC	9,228	
Other investors	45,664	
Total receipts from investors	<u>\$ 131,042</u>	
Payments to investors:		
Alliance	\$ (22,236)	
Anchor Holdings, LLC	(9,183)	
Other investors	(13,356)	
Total payments to investors	<u>(44,775)</u>	
Net Proceeds from Investors	<u>\$ 86,267</u>	
Purchase of investments:		
Phi R(squared) Series 1, 2, 3 and other, net	\$ (25,795)	
Madoff feeder funds, net	(30,192)	
Other investments, net	(13,275)	
Purchase of investments, net	<u>(69,262)</u>	
Net interest income and other receipts	<u>669</u>	
<b>TOTAL CASH RECEIPTS</b>		17,674
<b>INTER-FUND/INTRA-FUND TRANSFERS, NET</b>		11,126
<b>CASH DISBURSEMENTS:</b>		
Folio		(5,496)
BC Capital, net		(769)
Fees and expenses		(3,971)
Payments to be identified		(14,020)
Loss on currency exchanges, net		(3,973)
Other payments		(67)
<b>TOTAL CASH DISBURSEMENTS</b>		<u>\$ (28,296)</u>
<b>NET INCREASE IN CASH</b>		504
<b>BEGINNING CASH BALANCE</b>		<u>15,481</u>
<b>ENDING CASH BALANCE</b>		<u><u>\$ 15,985</u></u>

### **Receipts from and Payments to Alliance**

As detailed on page 52 of this report, the accounting records of Alliance show that Alliance had subscription contributions of approximately \$83.0<sup>7</sup> million to and redemption withdrawals of approximately \$46.2<sup>8</sup> million from Battoo-operated/controlled funds.

The \$8.15 million in receipts from and the \$22.2 million in payments to Alliance as shown on the above schedule did not mirror that of Alliance's records due to the unavailability of some EFG records to the Receiver.

### **Receipts from and Payments to Anchor Holdings, LLC**

The Private Placement Memorandums of Battoo-operated/controlled funds known to the Receiver all specified that the securities may not be directly or indirectly offered or sold in the U.S.

Anchor Holdings, LLC maintained a U.S. bank account which collected monies from U.S. persons and invested them in Battoo Funds directly by sending monies to EFG or indirectly through Alliance.

### **Investments in Phi R(squared) Series 1, 2 and 3**

As stated in the first report to the Court, Battoo-operated/controlled funds invested in Phi R(squared) Series 1, 2 and 3, leveraged fund-linked certificates connected with Societe Generale of London and linked to Phi R(squared) Series I, II and III Funds operated by Battoo, totaling approximately \$140 million and the legal settlement was only \$15,750,000 before legal fees. Of the approximately \$140 million, Class C Subfund of Anchor Fund, Class C Subfund of Diversified Fund, Class MCF and Class G Subfunds of Galaxy Fund contributed \$54 million, \$44 million, \$19 million and \$23 million, respectively. Redemptions from Class C Subfund of Anchor Fund and Class C Subfund of Diversified Fund were suspended on October 13, 2008 and December 17, 2008, respectively. Redemptions from both Class MCF and Class G Subfunds of Galaxy Fund were suspended in December 2008.

The net amount of \$25.8 million in purchase of Phi R(squared) Series 1, 2 and 3 as shown on the above schedule did not match the \$140 million sum the Receiver is aware of due to the unavailability of numerous EFG records to the Receiver.

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<sup>7</sup> The \$83 million of subscription contributions from Alliance includes: 1) the sum of \$79.8 million to the Battoo-controlled funds at EFG as shown in the graph on page 14, including \$42.9 million to Anchor Fund, \$29.7 million to Diversified Fund, \$0.95 million to Innovative SPC and \$6.2 million to Galaxy Fund; 2) \$2.75 million to Two Ocean Fund Ltd. and 3) \$400,000 to an unknown fund at EFG.

<sup>8</sup> The \$46.2 million includes: 1) the sum of \$43.8 million to Battoo-controlled funds at EFG as shown in the graph on page 14, including \$15.3 million from Anchor Fund, \$15.2 million from Diversified Fund, \$8.3 million from Diversified SPC, \$4 million from Innovative SPC and \$1 million from Galaxy Fund, and 2) \$2.37 million to Two Oceans Fund Ltd.

As detailed on page 60 of this report, BC Capital Group Limited, a Hong Kong company 90%-owned by Battoo, received approximately \$8.8 million from Phi R(squared) Series 1, 2 and 3 for managing the Phi R(squared) Series structured notes.

### **Intra-Fund and Inter-Fund Transfers**

The summary under Exhibit 20 also demonstrates an extensive movement of funds between the EFG accounts of these funds operated/controlled by Battoo, which are also summarized below.

(Amount in thousands)

	<b><u>Diversified Fund Ltd.</u></b>	<b><u>Diversified Investment</u></b>	<b><u>Diversified SPC</u></b>	<b><u>Innovative SPC</u></b>	<b><u>Anchor Fund</u></b>	<b><u>Galaxy Fund</u></b>	<b><u>Fund MS</u></b>	<b><u>Total</u></b>
<b><i>Inter-Fund Transfers:</i></b>								
Receipts	12,048	-	7,428	3,539	13,585	29,040	13,798	79,438
Payments	<u>(15,354)</u>	<u>(1,447)</u>	<u>(3,762)</u>	<u>(6,101)</u>	<u>(17,244)</u>	<u>(9,935)</u>	<u>(2,050)</u>	<u>(55,893)</u>
	<u>(3,306)</u>	<u>(1,447)</u>	<u>3,666</u>	<u>(2,562)</u>	<u>(3,659)</u>	<u>19,105</u>	<u>11,748</u>	<u>23,545</u>
<b><i>Intra-Fund Transfers:</i></b>								
Receipts	3,774	-	-	46	10,525	4,994	309	19,648
Payments	<u>(3,764)</u>	<u>-</u>	<u>-</u>	<u>(46)</u>	<u>(22,575)</u>	<u>(5,373)</u>	<u>(309)</u>	<u>(32,067)</u>
	<u>10</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(12,050)</u>	<u>(379)</u>	<u>-</u>	<u>(12,419)</u>
<b>Total</b>	<b><u>(3,296)</u></b>	<b><u>(1,447)</u></b>	<b><u>3,666</u></b>	<b><u>(2,562)</u></b>	<b><u>(15,709)</u></b>	<b><u>18,726</u></b>	<b><u>11,748</u></b>	<b><u>11,126</u></b>

The Receiver further analyzed the transactions of the intra-fund and inter-fund transfers and learned there were more than 800 transfers among these accounts of the funds operated and controlled by Battoo and noted a considerable amount in the movement of funds. These intra-fund and inter-fund transfers were frequent and random at Battoo's discretion as summarized below.

<b>Funds</b>	<b>Number of Transactions</b>	<b>Type</b>	<b>Receipts</b>	<b>Payments</b>	<b>Net</b>
Anchor Fund	36	Inter-Fund	\$ 13,585,335	\$ (17,244,539)	\$ (3,659,204)
Diversified Fund	29	Inter-Fund	12,048,500	(15,354,609)	(3,306,109)
Diversified Investment	6	Inter-Fund	-	(1,447,047)	(1,447,047)
Diversified SPC	30	Inter-Fund	7,428,251	(3,762,538)	3,665,713
Innovative SPC	26	Inter-Fund	3,539,263	(6,100,948)	(2,561,685)
Galaxy Fund	37	Inter-Fund	29,039,072	(9,934,380)	19,104,692
Fund MS	18	Inter-Fund	13,798,037	(2,050,000)	11,748,037
Total Internal-Fund Transfers	182		\$ 79,438,458	\$ (55,894,061)	\$ 23,544,397
Anchor Fund	304	Intra-Fund	\$ 10,525,129	\$ (22,574,595)	\$ (12,049,466)
Diversified Fund	229	Intra-Fund	3,773,570	(3,763,485)	10,085
Innovative SPC	36	Intra-Fund	46,646	(46,646)	-
Galaxy Fund	73	Intra-Fund	4,993,784	(5,372,617)	(378,833)
Fund MS	18	Intra-Fund	309,342	(309,342)	-
Total Intra-Fund Transfers	660		\$ 19,648,471	\$ (32,066,685)	\$ (12,418,214)
Totals	842		\$ 99,086,929	\$ (87,960,746)	\$ 11,126,183

The intra-fund and inter-fund transfers described above were extensive and some of which were accounted for as related party investments. An officer of Folio confirmed to the JOLs that intra-fund and inter-fund transfers were generally supported by instructions from Battoo. More than \$55 million was transferred between different funds at Battoo's direction. This further demonstrates that Battoo operated these EFG accounts and funds as a common investment pool.

The balance of \$11.1 million in intra-fund and inter-fund transfers as shown above cannot be fully eliminated/reconciled is also due to the unavailability of some EFG account records. Inter-fund and Intra-fund transfers among the funds, whether fully eliminated or not, are shown under Exhibit 20.

The Receiver also observed a number of inter-fund and intra-fund transfers used to cover the shortage of the funds for the receiving parties as illustrated below.

***Anchor Fund Class C Subfund***

<b>Dates</b>	<b>Transferred From</b>	<b>Amounts Transferred in</b>	<b>Balances Before the Receipts</b>	<b>Subsequent Uses of Funds</b>	
				<b>Amounts</b>	<b>To</b>
02/27/08	Anchor Fund Class B	<u>\$ 500,000.00</u>	<u>\$ 51,424.01</u>	<u>\$ (327,539.07)</u>	An investor
06/04/08	Diversified Fund Class C	<u>\$ 1,800,000.00</u>	<u>\$ 522,282.12</u>	<u>\$ (1,467,065.08)</u>	Two investors

This schedule above shows that Class C Subfund of Anchor Fund used the funds received from inter-fund and intra-fund transfers to pay its investors.

**Galaxy Fund**

Under Exhibit 21 is a consolidated summary of cash receipts and disbursements of Galaxy Fund for the period from August 23, 2006 to September 13, 2012 prepared by the Receiver combining three class subfunds using bank records currently available to the Receiver. It is summarized below.

(in thousands)

	<u>Galaxy Fund</u>
<b>CASH RECEIPTS:</b>	
Receipts from investors:	
UCA Ventures Ltd	\$ 20,000
Alliance	100
Other investors	1,370
Total receipts from investors	<u>\$ 21,470</u>
Payments to investors:	
Other investors	(995)
Total payments to investors	<u>(995)</u>
Net Proceeds from Investors	<u>\$ 20,475</u>
Purchase of investments:	
Phi R(squared) Series 2 and 3, net	\$ (20,519)
Other investments, net	(17,003)
Purchase of investments, net	<u>(37,522)</u>
Net interest income and other receipts	<u>218</u>
<b>TOTAL CASH RECEIPTS</b>	<b>(16,829)</b>
<b>INTER-FUND/INTRA-FUND TRANSFERS, NET</b>	<b>18,726</b>
<b>CASH DISBURSEMENTS:</b>	
Folio	(249)
Fees and expenses	(400)
<b>TOTAL CASH DISBURSEMENTS</b>	<b>\$ (649)</b>
<b>NET INCREASE IN CASH</b>	<b>1,248</b>
<b>BEGINNING CASH BALANCE</b>	<u>217</u>
<b>ENDING CASH BALANCE</b>	<u><u>\$ 1,465</u></u>

Due to the unavailability of all related bank records, a net of approximately \$379,000 in intra-fund transfers cannot be fully eliminated/reconciled at this time. Details of intra-fund and inter-fund transfers in the Galaxy Fund are summarized under Exhibit 22.

### **Anchor Fund**

Under Exhibit 23 is a consolidated summary of cash receipts and disbursements of Anchor Fund for the period from December 1, 2007 to September 10, 2012 prepared by the Receiver combining six class subfunds using bank records currently available to the Receiver, also summarized below.

(in thousands)

	<u>Anchor Fund</u>	
<b>CASH RECEIPTS:</b>		
Receipts from investors:		
Alliance	\$ 4,500	
UCA Ventures Ltd	15,000	
Oxford Fund Ltd	13,000	
Anchor Holdings, LLC	8,521	
Other investors	19,585	
Total receipts from investors	<u>\$ 60,606</u>	
Payments to investors:		
Alliance	(2,970)	
Anchor Holdings, LLC	(8,667)	
Other investors	(2,420)	
Total payments to investors	<u>(14,057)</u>	
Net Proceeds from Investors	<u>\$ 46,549</u>	
Purchase of investments:		
Phi R(squared) Series 1 and other, net	\$ (2,309)	
Madoff feeder funds, net	(12,187)	
Other investments, net	(8,394)	
Purchase of investments, net	<u>(22,890)</u>	
Net interest income and other receipts	<u>226</u>	
<b>TOTAL CASH RECEIPTS</b>	<b>23,885</b>	
<b>INTER-FUND/INTRA-FUND TRANSFERS, NET</b>	<b>(15,709)</b>	
<b>CASH DISBURSEMENTS:</b>		
Folio	(1,877)	
Fees and expenses	(2,192)	
Loss on currency exchanges, net	(2,657)	
Payments to be identified	(8,049)	
Other payments	(25)	
<b>TOTAL CASH DISBURSEMENTS</b>	<b>\$ (14,800)</b>	
<b>NET INCREASE IN CASH</b>	<b>(6,624)</b>	
<b>BEGINNING CASH BALANCE</b>	<b><u>6,905</u></b>	
<b>ENDING CASH BALANCE</b>	<b><u>\$ 281</u></b>	



Class A, B and E Subfunds of Anchor Fund suffered Madoff losses of \$12.2 million and suspended all redemptions in December 2008.

Due to the unavailability of all related bank records, a net of \$12.0 million in intra-fund transfers cannot be fully eliminated/reconciled at this time. Intra-fund and inter-fund transfers of Anchor Fund are summarized under Exhibit 24.

### **Diversified Fund, Diversified SPC and Innovative SPC**

Under Exhibit 25 is a consolidated summary of cash receipts and disbursements of Diversified Fund prepared by the Receiver combining seven class subfunds using bank records from July 4, 2007 to September 12, 2012 currently available to the Receiver. According to the bank statements and other account records, the accounts of these funds were opened in or prior to February 2008 and considered as the “old” Diversified Funds.

Under Exhibit 26 is a consolidated summary of cash receipts and disbursements of two EFG accounts, including 70593x.xxx.x (F1 Inv) and 70596x.xxx.x (F4 Inv), collectively referred as “Diversified Investment”, and Diversified SPC and Innovative SPC prepared by the Receiver combining the five class subfunds of Diversified SPC and Innovative SPC, using bank records from May 20, 2010 to September 12, 2012. The accounts of these funds were opened subsequent to May 20, 2010 and considered as the “new” Diversified Funds. These funds are the new funds replacing the old Diversified Funds as stated in the preceding paragraph. Nearly a net of \$3.5 million were transferred from the accounts of these old Diversified Funds to the accounts of these new Diversified Funds as summarized below.

(in thousands)

	<u>Diversified Investment</u>	<u>Diversified SPC</u>	<u>Innovative SPC</u>	<u>Totals</u>
Diversified Class A - Diversified SPC A	\$ -	\$ 3,221	\$ -	\$ 3,221
FuturesOne Kona - Innovative SPC B	-	-	2,000	2,000
Diversified Class F4 - Diversified SPC A	-	364	-	364
Innovative SPC B - Diversified Class F1	-	-	350	350
Diversified Class B - Innovative SPC B	-	-	262	262
Diversified Class O - Innovative SPC O	-	-	161	161
Diversified Class F1 - Innoative SPC O	-	-	117	117
<b>Total Receipts from FuturesOne Old Funds</b>	<b>\$ -</b>	<b>\$ 3,585</b>	<b>\$ 2,890</b>	<b>\$ 6,475</b>
Diversified Class A - Innovative SPC B	\$ -	\$ -	\$ (1,500)	\$ (1,500)
Diversified Class F1 - Diversified F1 Investment	(795)	-	-	(795)
Diversified Class F4 - Diversified Investment F4	(652)	-	-	(652)
Diversified Class LPAM - Diversified Class SPC A	-	(10)	-	(10)
Diversified Class LPAM - Innovative SPC B	-	-	(8)	(8)
Diversified Class LPAM - FuturesOne Inn SPC O	-	-	(8)	(8)
Diversified Class A - Innovative SPC O	-	-	(2)	(2)
<b>Total Payments to FuturesOne Old Funds</b>	<b>\$ (1,447)</b>	<b>\$ (10)</b>	<b>\$ (1,518)</b>	<b>\$ (2,975)</b>
<b>Total</b>	<b>\$ (1,447)</b>	<b>\$ 3,575</b>	<b>\$ 1,372</b>	<b>\$ 3,500</b>

Under Exhibit 27 is a consolidated summary of cash receipts and disbursements of Diversified Fund, Diversified Investment, Diversified SPC, and Innovative SPC by fund and by class subfund, viewed as a single fund (collectively as “FuturesOne Funds”), prepared by the Receiver using bank records, which are also summarized below.

The approximately \$18.0 million in net investments in Madoff feeder funds was made by Class L Subfund of Diversified Fund. Redemptions from Class L Subfund of Diversified Fund were suspended in December 2008.

Due to the unavailability of all related bank records, a net of \$10,085 in intra-fund transfers cannot be fully eliminated/reconciled at this time. Intra-fund and inter-fund transfers are summarized under Exhibit 28.

(in thousands)

	<u>FuturesOne Fund</u>
<b>CASH RECEIPTS:</b>	
Receipts from investors:	
Alliance	\$ 3,550
Oxford Fund Ltd	20,000
Anchor Holdings, LLC	707
Other investors	24,708
Total receipts from investors	<u>\$ 48,965</u>
Payments to investors:	
Alliance	\$ (19,266)
Anchor Holdings, LLC	(516)
Other investors	(9,941)
Total payments to investors	<u>(29,723)</u>
Net Proceeds from Investors	<u>\$ 19,242</u>
Purchase of investments:	
Phi R(squared) Series 1, 2 and other, net	\$ (2,966)
Madoff feeder funds, net	(18,004)
Other investments, net	13,929
Purchase of investments, net	<u>(7,041)</u>
Net interest income and other receipts	<u>254</u>
<b>TOTAL CASH RECEIPTS</b>	<b>12,455</b>
<b>INTER-FUND/INTRA-FUND TRANSFERS, NET</b>	<b>(3,639)</b>
<b>CASH DISBURSEMENTS:</b>	
Loss on currency exchanges, net	(1,316)
Folio	(3,218)
Fees and expenses	(1,155)
Payments to be identified	(5,971)
Other payment	<u>(31)</u>
<b>TOTAL CASH DISBURSEMENTS</b>	<b>\$ (11,691)</b>
<b>NET INCREASE IN CASH</b>	<b>(2,875)</b>
<b>BEGINNING CASH BALANCE</b>	<u>8,359</u>
<b>ENDING CASH BALANCE</b>	<u><u>\$ 5,484</u></u>

**Fund MS and Its Wholly-Owned Subsidiary, Phi R(squared) Master Series Investment Ltd. (MS Ltd.)**

Under Exhibit 29 is a consolidated summary of cash receipts and disbursements of Fund MS and its wholly-owned subsidiary, MS Ltd., for the period from March 24, 2009 to September 12, 2012 prepared by the Receiver as summarized below.

	(in thousands)
	<u>Phi R Squared Fund</u>
<b>INTER-FUND/INTRA-FUND TRANSFERS, NET</b>	11,748
Purchase of investments:	
Other investments, net	<u>(1,808)</u>
Purchase of investments, net	(1,808)
Other receipts	<u>2</u>
<b>TOTAL CASH RECEIPTS</b>	(1,806)
<b>CASH DISBURSEMENTS:</b>	
Folio	(151)
BC Capital	(801)
Fees and expenses	(225)
Other payments	<u>(10)</u>
<b>TOTAL CASH DISBURSEMENTS</b>	\$ (1,187)
<b>NET INCREASE IN CASH</b>	8,755
<b>BEGINNING CASH BALANCE</b>	<u>-</u>
<b>ENDING CASH BALANCE</b>	<u>\$ 8,755</u>

As described on page 46 of this report, the ultimate shareholder of Fund MS did not make its subscription contributions directly to Fund MS. It contributed \$20 million and \$15 million to Class MCF Subfund of Galaxy Fund and Class C Subfund of Anchor Fund on September 30, 2008, respectively. Through inter-fund transfers, cash and purchased securities, totaling \$11.7 million subsequently reached MS Ltd.

Fund MS and MS Ltd. are also discussed in more detail on the page 46 of this report.

## **Activities at Alliance**

The findings detailed below show that Battoo instructed Alliance to invest approximately \$83 million in hedge funds structurally formed in the British Virgin Islands who maintained accounts at EFG. Alliance received approximately \$217.1 million in investor funds and the amount sent to EFG for further investment represented just 38.2% of investor funds solicited by Battoo. In addition, Battoo misappropriated approximately \$45.7 million (21.1%) for his personal use and paid approximately \$18.3 million (8.4%) to parties related to him.

Battoo and Alliance set up a total of 71 accounts consisting of 66 investor portfolios and five Battoo owned-accounts. These accounts were maintained in ledger form, rather than segregated bank accounts. The Receiver and the JOLs determined the transactions carried on the ledger accounts were accurate, but accounts with positive cash balances state balances that are not backed by cash. The following paragraphs provide detailed information as to each of these ledger accounts.

### **66 PIWM/PIWM-I Portfolios Managed by Battoo and Under Custody of Alliance**

#### **General and Organization**

Two Battoo-owned Panamanian companies, BC Capital Group S.A. (BCCG) and BC Capital Group International S.A. (BCCGI), were promoted as being the managers and managing companies for the Private International Wealth Management (PIWM) and Private International Wealth Management – Insurance (PIWM-I) investment programs, respectively. Alliance, a Bahamian registered Class One Broker Dealer, had contracts with BCCG and BCCGI to act as a custodian for investor funds and portfolio securities, i.e., investments in Battoo-operated/controlled funds. On November 12, 2012 the Chief Justice of the Bahamas Supreme Court appointed Kevin D. Seymour and Kevin G. Cambridge of PricewaterhouseCoopers Advisory (Bahamas) Ltd. and Brick Kane of Robb Evans & Associates LLC as JOLs of BCCG and BCCGI.

For various investment objectives, the PIWM/PIWM-I Portfolios were set up based on the following strategies:

<b>PIWM Portfolios</b>	<b>PIWM-I Portfolios</b>	<b>Portfolio Strategies</b>
C	-	Conservative
G	G	Absolute Growth
AG	AG	Absolute Aggressive Growth
MN	MN	Market Neutral
-	A	Conservative
-	B	Growth
-	C	Aggressive Growth

Alliance maintained customer records for the transactions of each nominee institutional investor, on behalf of the underlying beneficial individual investors, of the PIWM/PIWM-I investment programs. Transactions in the customer accounts covered both purported cash balances and security positions. A ledger account for a customer, i.e., a PIWM or PIWM-I portfolio holder, titled Cash Reconciliation Report (CRR) was maintained by Alliance itemizing cash receipts and disbursements of a portfolio, including receipts from and payments to the investor, as well as subscription contributions to and redemption withdrawals from Battoo-operated/controlled funds. Another ledger account for a customer titled Security Reconciliation Report (SRR) was also maintained by Alliance itemizing securities purchases and redemptions. These securities were investments that were predominantly placed in Battoo-operated/controlled funds.

Alliance maintained two omnibus bank accounts at First Caribbean International Bank and Royal Bank of Canada to account for transactions of all its customers. Other than the internal transfers among the customer accounts, the deposits and withdrawals carried on the CRRs reconciled to these two bank accounts, except for some transactions which were shown on the bank statements but not carried on the CRRs or vice versa, as discussed below.

#### **Activities Carried on the CRRs for 66 PIWM/PIWM-I Portfolios**

Under Exhibit 30 is a summary of activities carried on the CRRs for each of the 66 PIWM/PIWM-I Portfolios for the period from April 28, 2005 (initial date of recording) to July 2, 2012 (last date of recording) and under Exhibit 31 is a combined summary for all 66 PIWM/PIWM-I Portfolios for the same period. The overall activities carried on the CRRs for all 66 PIWM/PIWM-I Portfolios are summarized as follows (amounts in millions):

Receipts from investors	\$183.9
Payments to investors	<u>(76.7)</u>
Net receipts from investors	\$107.2
Other receipts	1.5
Purchase of Battoo-operated/controlled funds	(69.9)
Proceeds from sale of Battoo-operated/controlled funds	<u>37.0</u>
Net balance	<u>(32.9)</u>
Balance before expense and transfers	75.8
Expenses and transfers:	
Transfers to BCCG SA/TS, a Battoo-owned account maintained by Alliance	(31.2)
Management fees charged by Battoo	(9.6)
Other expenses and payments	<u>(1.2)</u>
Total expenses and transfers	<u>(42.0)</u>
Balance at end of period	<u><u>\$ 33.8</u></u>

On page 39 of this report are complete financial details of five additional Battoo-owned accounts that were maintained and operated at Alliance under Battoo's direction and control. Total receipts in these five accounts were approximately \$90 million. Battoo directed payments totaling approximately \$123.3 million, including \$45.7 million to himself or for his benefit and \$18.0 million to parties related to him, creating a total overdraft in the five accounts of \$33.3 million. That total overdraft reduced the \$33.8 million customer account balance of the 66 PIWM/PIWM-I Portfolios to approximately \$500,000. This is just one of many examples of commingling detailed in this report. Most of that sum was soon paid to the Battoo-appointed liquidator that was replaced by the JOLs.

Note 4 to the summary under Exhibit 31 shows that at July 2, 2012, balances for the 66 PIWM/PIWM-I Portfolios were as follows:

33 portfolios with period-end balances greater than \$0	\$ 51,541,722.19
28 portfolios with period-end balances less than \$0	(17,777,035.65)
5 portfolios with period-end balances = \$0	<u>                    -</u>
Net, 66 portfolios	<u><u>\$ 33,764,686.54</u></u>



**Portfolios with Positive Balances at July 2, 2012 and a Sample Illustration**

Activities for the 33 PIWM/PIWM-I Portfolios with a positive balance at July 2, 2012 are presented under Exhibit 30.

Portfolio "FOD Class LPAM (G)", item number 32 at page 2 of the summary under Exhibit 30, is used as a sample illustration for portfolios with a positive balance at July 2, 2012.

***FuturesOne Diversified Fund, Ltd. Class LPAM Subfund***

The portfolio name "FOD Class LPAM" refers to FuturesOne Diversified Fund, Ltd. Class LPAM Subfund (Class LPAM Subfund of Diversified Fund). On September 24, 2008, some investors contributed their shareholdings in Classes A and C Subfunds of Anchor Fund and Classes A, B and O Subfunds of Diversified Fund totaling approximately \$4.7 million as in-kind subscription contributions to Class LPAM Subfund of Diversified Fund. Class LPAM Subfund of Diversified Fund then contributed the same securities as in-kind subscription contributions for its participation in portfolio "FOD Class LPAM (G)." The contributed securities were carried on the SRR of portfolio "FOD Class LPAM (G)."

On October 20, 2008, investors of Class LPAM Subfund of Diversified Fund started making subscription contributions in cash to this subfund and the subfund immediately transferred substantial portions of cash received to Alliance as subscription contributions for the subfund's participation in portfolio "FOD Class LPAM (G)."

Under Exhibit 32 is a schedule of cash receipts and disbursements of Class LPAM Subfund of Diversified Fund for the period from October 20, 2008 to July 27, 2012 and is summarized as follows:

Subscription contributions from investors	\$ 10,960,000.00
Redemption withdrawals by investors	<u>(2,685,449.59)</u>
Net subscription contributions	8,274,550.41
Payments to Alliance for participation in portfolio "FOD Class LPAM (G)"	<u>(7,150,000.00)</u>
Balance before expenses	1,124,550.41
Total expenses paid	<u>(1,089,704.37)</u>
Ending balance at July 27, 2012	<u>\$ 34,846.04</u>

This schedule shows that the subfund had a cash balance of \$565,606.29 at May 24, 2011. Subsequently, on June 24, 2011, \$1.3 million was received from investors which enabled the subfund to pay \$1,781,356.14 to other investors on June 27, 2011. In other words, some investor funds were used by the subfund to pay other investors, as no distributions were received by the subfund from portfolio "FOD Class LPAM (G)" between May 25, 2011 and June 26, 2011.

Also, from an actual cash flow point of view, the investors of Class LPAM Subfund of Diversified Fund had \$8,274,550.41 in net subscription contributions in cash, excluding the approximately \$4.7 million in in-kind subscription contributions in securities, to the subfund and received nothing in return from the subfund's participation in portfolio "FOD Class LPAM (G)" as discussed below.

The Receiver reviewed the audited balance sheet of Class LPAM Subfund of Diversified Fund at December 31, 2009 and summarized it as follows:

**CURRENT ASSETS:**

Cash	\$ 224,413
Investments in a PIWM Portfolio under custody of Alliance:	
Investments in third-party funds	7,678,185
Investments in Battoo funds	916,447
Managed accounts at Alliance	3,055,583
Cash held in the portfolio	<u>654,439</u>
Total investments in a PIWM Portfolio	<u>12,304,654</u>
TOTAL ASSETS	12,529,067
<b>CURRENT LIABILITIES</b>	<u>293,908</u>
<b>NET ASSETS</b>	<u><u>\$ 12,235,159</u></u>

The detail presented in Exhibit 32 shows there were no disbursements for the purchase of third-party funds prior to December 31, 2009. The \$7,678,185 in investments in third-party funds were non-existent. Therefore, in collusion with Alliance, Battoo provided false data to the auditors of Class LPAM Subfund of Diversified Fund and consequently presented overstated financial data to the investors of Class LPAM Subfund of Diversified Fund.

Under Exhibit 33 is a notice of Suspension of Calculation of Net Asset Values and Dealings in Shares dated December 22, 2011 issued by the board of directors of Class LPAM Subfund

of Diversified Fund stating that the suspension was due to the bankruptcy protection filed by MF Global on October 31, 2011.

The Receiver confirmed that the at-risk amount for Class LPAM Subfund of Diversified Fund when MF Global filed bankruptcy on October 31, 2011 was no more than \$4,000.00, due to the subfund's ultimate shareholding in a Battoo fund on that day. The Receiver believes that the real reason for the suspension was the unavailability of cash in portfolio "FOD Class LPAM (G)" as discussed below.

***Portfolio "FOD Class LPAM (G)"***

Under Exhibit 34 is a copy of the CRR for portfolio "FOD Class LPAM (G)" for the period from September 30, 2008 to June 27, 2011 maintained by Alliance showing a positive ending balance of \$5,447,812.02. Under Exhibit 35 is a schedule of transactions for this portfolio compiled by the Receiver upon completion of review of the related CRRs and Alliance's omnibus bank accounts. It is summarized as follows:

**CASH RECEIPTS:**

Receipts from investor	\$ 7,149,980.00
Proceeds from sale of Battoo-operated/controlled funds received by the portfolio as in-kind subscription contributions from the investor on September 24, 2008 as shown on the SRR	1,453,690.99
Distribution receipt from a Battoo fund	<u>81,449.56</u>
<b>TOTAL CASH RECEIPTS</b>	<u><b>8,685,120.55</b></u>

**CASH DISBURSEMENTS:**

Internal transfers to a Battoo-owned account at Alliance, BCCG SA/TS	(3,000,000.00)
Management fees charged by Battoo	(237,204.96)
Bank charges	<u>(103.57)</u>
<b>TOTAL CASH DISBURSEMENTS</b>	<u><b>(3,237,308.53)</b></u>

**BALANCE AT END OF PERIOD** **\$ 5,447,812.02**

As discussed below, Alliance also maintained customer records for five Battoo-owned accounts and one of them was titled “BCCG SA/TS.” As shown on the summary under Exhibit 30, internal transfers to the BCCG SA/TS account totaling approximately \$31.2 million were shown on the CRRs for 18 PIWM/PIWM-I Portfolios including \$3 million for portfolio “FOD Class LPAM (G).” The Receiver has confirmed that such transfers did not produce any benefits to those participants in the 18 portfolios but only with their balances at Alliance unjustifiably reduced. Therefore, from an actual cash flow point of view, ending balance of portfolio “FOD Class LPAM (G)” should have been \$8,447,812.02 (i.e., \$5,447,812.02 + \$3,000,000).

Also, either the \$5,447,812.02 or the \$8,447,812.02 balance is not realizable by the investors as Alliance had no cash available to the participants of PIWM/PIWM-I Portfolios due to the overpayments to other investors and the misappropriation and spending of investor funds by Battoo in collusion with Alliance, which are discussed in detail below.

### **Portfolios with Negative Balances at July 2, 2012 and a Sample Illustration**

Activities for the 28 PIWM/PIWM-I Portfolios with negative balances at July 2, 2012 are presented under Exhibit 30.

Portfolio “Anchor Holdings (AG)”, item number 40 at page 2 of the summary under Exhibit 30, is used as a sample illustration for portfolios with a negative balance at July 2, 2012. Upon completion of review of the CRR and Alliance’s omnibus bank accounts, the Receiver summarizes the transactions of this portfolio as follows:

#### **CASH RECEIPTS:**

Receipts from investor (05/01/09 to 06/29/10)	<u>\$ 1,866,639.92</u>
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#### **CASH DISBURSEMENTS:**

Payments to investor (05/14/09 to 01/21/11)	(3,811,810.73)
Management fees charged by Battoo (05/31/09 to 05/31/10)	(120,027.80)
Accounting fee (04/11/11)	(13,500.00)
Bank charges (08/21/09 to 04/11/11)	<u>(6,529.08)</u>

TOTAL CASH DISBURSEMENTS	<u>(3,951,867.61)</u>
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<b>OVERDRAFT</b>	<u><u>\$ (2,085,227.69)</u></u>
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Payments to investor should not have been in excess of \$1,726,583.04 (i.e., \$1,866,639.92 - \$120,027.80 - \$13,500 - \$6,529.08). The \$2,085,227.69 in overpayment to this nominee institutional portfolio participant was made by using funds of other portfolio participants which represents commingling and improper use of investor funds by Battoo.

### Summary of Positive and Negative Balances at July 2, 2012

Note 4 to the summary under Exhibit 31 shows that at July 2, 2012, balances for the 66 PIWM/PIWM-I Portfolios were as follows:

33 portfolios with period-end balances greater than \$0	\$ 51,541,722.19
28 portfolios with period-end balances less than \$0	(17,777,035.65)
5 portfolios with period-end balances = \$0	-
Net, 66 portfolios	\$ 33,764,686.54

Since the internal transfers totaling \$31,199,358.01 (column 8, page 4, Exhibit 30) from 18 PIWM/PIWM-I Portfolios to the Battoo-owned account, BCCG SA/TS, as carried on the CRRs did not produce any benefits to those participants in the 18 portfolios but only with their balances at Alliance unjustifiably reduced, the balances for the 66 PIWM/PIWM-I Portfolios at July 2, 2012 should have been increased from \$33,764,686.54 to \$64,964,044.55 (i.e., \$33,764,686.54 + \$31,199,358.01) from an actual cash flow point of view. They are re-summarized as follows:

37 portfolios with period-end balances greater than \$0	\$ 80,676,962.33
27 portfolios with period-end balances less than \$0	(15,712,917.78)
2 portfolios with period-end balances = \$0	-
Net, 66 portfolios	\$ 64,964,044.55

In summary, from an actual cash flow point of view, at July 2, 2012, 37 portfolios under management by Battoo and under custody of Alliance had positive balances totaling approximately \$80.7 million and 27 portfolios had overdrafts totaling approximately \$15.7 million, which resulted in a net balance of approximately \$65.0 million.

The approximately \$80.7 million in positive ending balances is not realizable by the investors due to the overpayments to other investors and the misappropriation and spending of investor funds by Battoo in collusion with Alliance as discussed below.

The approximately \$15.7 million in overpayments to investors represents commingling of investor funds by Battoo.

## **Five Battoo-Owned Accounts under Custody of Alliance**

### **Activities Carried on the CRRs for Five Battoo-Owned Accounts**

There are five Battoo-owned accounts under custody of Alliance, two TS accounts and three income accounts. Alliance would not inform the JOLs what “TS” was referring to.

Under Exhibit 36 is a summary of activities carried on the CRRs of two TS accounts and three income accounts for the period from April 10, 2003 to July 31, 2012 compiled by the Receiver upon completion of review of the related CRRs and Alliance’s omnibus bank accounts. It is summarized as follows (amounts in millions and excluding the BCCG SA/Income (Euro) account as the amounts are insignificant):

	<u>TS</u>		<u>Income</u>		<u>Com- bined</u>
	<u>BCCG</u>	<u>BCCG-</u>	<u>BCCG</u>	<u>BCCGI</u>	
	II				
<b>CASH RECEIPTS AND</b>					
<b>INTERNAL TRANSFERS:</b>					
Receipts from participants					
Anchor Holdings, LLC	\$ 16.2	\$ -	\$ -	\$ -	\$ 16.2
Other participants	<u>17.0</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>17.0</u>
Subtotal	33.2	-	-	-	33.2
Other receipts	13.5	1.3	1.1	0.2	16.1
Transfers from PIWM/PIWM-I					
Portfolios	31.2	-	-	-	31.2
Management fees from PIWM/ PIWM-I Portfolios	<u>-</u>	<u>-</u>	<u>2.6</u>	<u>6.9</u>	<u>9.5</u>
TOTAL CASH RECEIPTS	<u>77.9</u>	<u>1.3</u>	<u>3.7</u>	<u>7.1</u>	<u>90.0</u>
<b>INTER-ACCOUNT TRANS-</b>					
<b>FERS</b>	<u>(18.1)</u>	<u>-</u>	<u>20.1</u>	<u>(2.0)</u>	<u>-</u>
<b>CASH DISBURSEMENTS:</b>					
Payments to participants:					
Anchor Holdings, LLC	(11.1)	-	-	-	(11.1)
Other participants	<u>(7.2)</u>	<u>-</u>	<u>(0.9)</u>	<u>(1.0)</u>	<u>(9.1)</u>
Subtotal	(18.3)	-	(0.9)	(1.0)	(20.2)
Payments for investments	(19.0)	(2.1)	-	-	(21.1)
Payments to or for Battoo	(11.1)	-	(34.5)	(0.1)	(45.7)
Payments to parties related to Battoo	(5.6)	-	(7.6)	(4.8)	(18.0)
Other payments	<u>(10.7)</u>	<u>-</u>	<u>(7.3)</u>	<u>(0.3)</u>	<u>(18.3)</u>
TOTAL CASH DISBURSEMENTS	<u>(64.7)</u>	<u>(2.1)</u>	<u>(50.3)</u>	<u>(6.2)</u>	<u>(123.3)</u>
<b>OVERDRAFTS, END OF</b>					
<b>PERIOD</b>	<u>\$ (4.9)</u>	<u>\$ (0.8)</u>	<u>\$ (26.5)</u>	<u>\$ (1.1)</u>	<u>\$ (33.3)</u>

Under Exhibit 37 are the notes to this summary.

**Receipts from and Payments to a Participant, Anchor Holdings, LLC**

As listed on page 2 of the summary under Exhibit 30, the first two PIWM portfolios set up at Alliance (item numbers 36 and 37) for Anchor Holdings, LLC was October 31, 2008.

Receipts from and payments to Anchor Holdings, LLC before or around October 31, 2008 were carried on the CRRs of the BCCG SA/TS account. Between September 26, 2005 and November 28, 2008, Alliance's omnibus bank accounts received approximately \$16.2 million from Anchor Holdings, LLC and paid approximately \$11.1 million to this entity between July 20, 2005 and March 4, 2009. The first date of receipt was September 26, 2005 while the first date of payment was July 20, 2005. This may have been caused by Anchor Holdings, LLC's direct wire transfers to EFG for its investments in Battoo-operated/controlled funds as discussed on the page 52 of this report.

**Receipts from and Payments to Other Participants**

Alliance's omnibus bank accounts and CRRs of Battoo-owned accounts showed total receipts from and payments to participants other than Anchor Holdings, LLC of approximately \$17 million and \$9.1 million, respectively. These participants either had their portfolios set up at Alliance at a date later than their first subscription contributions to Alliance, or they had no PIWM or PIWM-I portfolios set up at Alliance.

**Internal Transfers from 18 PIWM/PIWM-I Portfolios to the BCCG SA/TS Account**

Internal transfers from 18 PIWM/PIWM-I Portfolios to the BCCG SA/TS account aggregated to \$31,199,358.01 between March 21, 2005 and March 1, 2009. These internal transfers increased balances of the BCCG SA/TS account which enabled charging against the BCCG SA/TS account certain payments and transfers to the BCCG SA/Income account summarized as follows:

Transfers to BCCG SA/Income account	\$ 14,880,000.00
Payments to Anchor Holdings, LLC	5,358,000.00
Payments for Battoo	4,024,000.00
Other payments	3,218,531.01
Payments to participants without portfolios being set up by Alliance	2,014,000.00
Purchase of Triumph Offshore Fund, under investigation of the Receiver	1,243,827.00
Payments to parties related to Battoo	426,000.00
Purchase of third-party equity securities	<u>35,000.00</u>
Total	<u>\$ 31,199,358.01</u>



The CRRs of the five portfolios of Anchor Holdings, LLC, items 36 to 40 on page 2 of the summary under Exhibit 30, did not carry any transfers to the BCCG SA/TS account. The charging against the BCCG SA/TS account for payments to Anchor Holdings LLC prior to the setup of the five portfolios means commingling of investor funds by Battoo, i.e., other investor funds of approximately \$5.4 million were used to pay Anchor Holdings LLC.

The \$2,014,000 in payments to participants without portfolios being set up by Alliance also means commingling of investor funds by Battoo, i.e., funds of investors with setup portfolios were used to pay investors without setup portfolios.

In summary, the approximately \$31.2 million in transfers from 18 PIWM/PIWM-I Portfolios did not produce any benefits to those participants in the 18 portfolios but only with their balances at Alliance unjustifiably reduced.

### **Management Fees Charged by Battoo**

Management fees charged by Battoo and carried on the CRRs of BCCG SA/Income and BCCGI SA/Income accounts aggregated to approximately \$27.6 million (i.e., \$9.5 million + \$20.1 million – \$2 million), of which approximately 9.5 million was charged against the PIWM/PIWM-I Portfolios and \$18.1 million was charged against the BCCG SA/TS account.

With management fee income of approximately \$27.6 million and other receipts of approximately \$1.3 million (i.e., \$1.1 million + \$0.2 million) carried on the CRRs of BCCG SA/Income and BCCGI SA/Income accounts, cash disbursements totaling approximately \$56.5 million (i.e., \$50.3 million + \$6.2 million) were charged against these two income accounts of Battoo.

The charging of approximately \$56.5 million in cash disbursements against the two income accounts of Battoo at Alliance means that these disbursements were made for Battoo's benefit. The approximately \$27.6 million in management fees, \$1.3 million in other receipts and \$56.5 million in cash disbursements for Battoo's benefit resulted in overdrafts of approximately \$27.6 million by these two income accounts of Battoo. The approximately \$27.6 million in overdrafts was financed by investor funds.

### **The Aleteo Foundation**

Alliance received \$1.5 million from The Aleteo Foundation on January 5, 2004 and paid approximately \$2.5 million to this entity on April 8, 2010. Both the receipt and payment are carried on the CRRs of the BCCG SA/TS account.

### **Investments in Third-Party Equity Securities**

The activities of investing in third-party equity securities are carried on the CRRs of the two TS accounts. They are shown under Exhibits 38 and 39.

Purchase and sale of third-party equity securities between December 29, 2003 and June 16, 2011 amounted to approximately \$1.9 million and \$1.4 million, respectively, which resulted in a trading loss of approximately \$0.5 million.

### **Purchase of Preference Shares Issued by Alliance**

As previously reported, Battoo executed two share purchase agreements on behalf of BCCG with Alliance on June 11, 2010 and December 1, 2011 to purchase Class "A" non-voting preference shares in the amounts of \$2 million and \$3 million, respectively. Without the issuances of the preference shares, Alliance had deficit, i.e., negative equity, of approximately \$6 million and \$6.2 million at December 31, 2010 and December 31, 2011, respectively.

Consequently, \$2 million was charged on June 30, 2010 against the BCCG SA/TS account when the CRR was showing an account overdraft of approximately \$1.7 million and \$3 million was charged on December 16, 2011 against the same account when the CRR was showing an account overdraft of approximately \$2.4 million.

These transactions resulted in allowing Alliance to use \$5 million of customer funds. Alliance is currently illiquid and the Receiver believes that the recovery on this \$5 million investment made by Battoo is doubtful.

### **Payments to or for Battoo**

Cash disbursed to or for Battoo and carried on the CRRs of the Battoo-owned accounts at Alliance aggregated to approximately \$45.7 million. Summarized below are the most significant transactions (amounts in millions):

Designer Services	\$ 11.1
Folio	5.3
Nicola L. Zagarolo & Associates, P.A.	
Trust Account IOTA	4.6
Henry Peter	3.3
Peterlegal SA	0.2
Gold Aviation Services Inc.	3.3
Patricia Cavagna Pedrazzi	3.1
AVV. David Enderlin	2.5
Studio Legale AVV DA	0.5
Digital Synergy Inc.	2.9
UCA Ventures Ltd.	2.4
Othman Rashid Rezgar	1.7
ABA Aston Business Advisory SAGL	0.8
BC Capital Management LLP and	
BC Capital Group Limited	0.7
Bay Management Advisors Ltd.	0.6
Collette Guerra and related parties	0.6
Dreamlink Investment Group, LLC	0.5
Nissim Jewelers Inc.	0.4
Kathleen Battoo	0.4
	<u>0.4</u>
	<u>\$ 44.9</u>

### *Designer Services*

Between May 18, 2004 and June 25, 2010, Alliance paid approximately \$11.1 million to Designer Services, an interior designer located in Tennessee, USA, that was previously engaged by Battoo in connection with the interior design and furnishing of his personal residence in Switzerland.

The Receiver obtained a spreadsheet from SEC detailing invoices relating to Battoo's Switzerland residence which shows, in part, the following:

Labor	\$4,645,071.80
Commissions	2,354,986.43
Furniture	1,504,775.76
Fabric	849,803.70
Hardware	<u>570,221.86</u>
Total	<u>\$9,924,859.55</u>

While many of the underlying invoices produced in response to the SEC's subpoena were from a sub-contractor and the details were not in English; however, two invoices totaling \$116,784.41 for Battoo's wine cellar evidence Battoo's lavish lifestyle funded at the expense of the investors.

### *Folio*

Folio was the administrator of Battoo-operated/controlled funds before its resignation on April 30, 2012.

Between October 19, 2004 and February 14, 2012, Alliance paid \$5,384,060 to Folio, of which \$5,313,935 was carried on the CRRs of two Battoo-owned accounts and \$70,125 was carried on the CRRs of 11 PIWM-I Portfolios. Daniel Cann, the Group Marketing Director and Managing Director of Folio's Panama Branch, informed the JOLs that Battoo used to maintain an account at Folio and payments out of that client account for the \$5,384,060 received from Alliance were as follows:

Acquisition of shareholding in Galaxy Capital Management Ltd.	\$3,200,000
Payments to Arboria Fund Ltd. using funds received from Alliance between January 27, 2009 and January 26, 2010	1,600,000
Payment to Trust Services, S.A. for a participant	500,000
Service fees charged by Folio	<u>84,060</u>
Total	<u>\$5,384,060</u>

Mr. Cann also told the JOLs that Battoo acquired shareholding in Galaxy Capital Management Ltd., the manager of Galaxy Fund. The \$3.2 million in acquisition of shareholding in Galaxy Capital Management Ltd. is discussed below.

Mr. Cann stated that when Class C Subfund of Anchor Fund was suspended, Arboria Fund Ltd. (Arboria) was a substantial creditor of this fund. Anchor Hedge Fund Management Limited, the manager of Anchor Fund, agreed to pay Arboria at an agreed rate so that the manager of Anchor Fund became the creditor instead.

Class C Subfund of Anchor Fund suffered substantial losses in its sole investment in leveraged fund-linked certificates, Phi R(squared) Series 1, and consequently suspended redemptions effective October 13, 2008. The payments to Arboria at EFG, initiated by Battoo, were made subsequent to October 13, 2008 and the sources of funds used to pay Arboria ultimately came from investor funds at Alliance. Again, the investor funds were used by Battoo on a commingled basis.

The Receiver reviewed the subpoenaed bank records of Dreamlink Investment Group, LLC, a company of Battoo, and discovered that this company received approximately \$2.8 million between May 16, 2006 and October 8, 2010 from Folio. Mr. Cann informed the JOLs that management fees charged to Battoo-controlled hedge funds and dividends earned by Battoo from Galaxy Capital Management Ltd. were collected by Battoo's account at Folio and subsequently paid from Battoo's account at Folio to Dreamlink Investment Group, LLC, as instructed by Battoo.

In short, Battoo used investor funds totaling \$3.2 million to acquire his shares in Galaxy Capital Management Ltd. and dividend income from this company was collected personally by Battoo.

***Nicola L. Zagarolo & Associates, P.A. Trust Account IOTA***

Nicola Zagarolo was Battoo's attorney who resided in Florida. Between August 6, 2003 and December 1, 2011, Alliance paid approximately \$4.6 million to Nicola L. Zagarolo & Associates, P.A. Trust Account IOTA. The Receiver reviewed the subpoenaed bank records of this client trust account for the period from March 22, 2006 to August 30, 2012 and confirmed that all wire transfers sent by Alliance during this period were credited to this account and subsequently spent for Battoo's personal use.

The schedule and summary regarding the trust account's activities in connection with Battoo for the period from March 22, 2006 to August 30, 2012 are under Exhibits 40 and 41, respectively. Transactions between Battoo and one of his companies, Quantum Blackstar LLC, are also included in the schedule and summary.

Under this Court's order, Nicola Zagarolo turned over \$113,896.20 to the receivership estate on May 1, 2013. A \$280,000 sum in connection with the sale of a townhouse by Quantum Blackstar LLC was also turned over to the receivership estate on the same day.

***Henry Peters and Peterlegal SA***

Between September 7, 2007 and September 27, 2007, Alliance paid approximately \$3.3 million to Henry Peters, an attorney in Switzerland, who provided legal services to Battoo which included securing Battoo's naturalization in Switzerland.

Between October 2, 2009 and November 4, 2011, Alliance paid approximately \$0.2 million to Peterlegal SA, a law firm in Lugano, Switzerland which is likely affiliated with Henry Peter.

***Gold Aviation Services Inc.***

Between August 2, 2006 and March 2, 2011, Alliance paid approximately \$3.3 million to Gold Aviation Services Inc., a company located in Florida and provided light jet aviation services to Battoo.

***Patricia Cavagna Pedrazzi***

Between March 17, 2008 and October 4, 2010, Alliance paid approximately \$3.1 million to Patricia Cavagna Pedrazzi in Switzerland, who was not an investor. The payments are carried on the CRRs of the BCCG SA/Income account.

***AVV. David Enderlin and Studio Legale AVV DA***

Between March 17, 2008 and October 23, 2008, Alliance paid approximately \$2.5 million to David Enderlin, an attorney in Lugano, Switzerland, who may have provided legal services to Battoo.

Between March 17, 2008 and May 28, 2008, Alliance paid approximately \$0.5 million to Studio Legale AVV DA, a law firm in Switzerland affiliated with David Enderlin.

***Digital Synergy Inc.***

Between November 21, 2006 and April 4, 2011, Alliance paid approximately \$2.9 million to Digital Synergy Inc., a software consulting company in Florida. The payments are carried on the CRRs of the BCCG SA/Income account.

*UCA Ventures Ltd. (UCA)*

UCA is the ultimate sole shareholder of Fund MS, a Battoo-controlled fund.

On September 30, 2008, UCA contributed \$20 million to Class MCF Subfund of Galaxy Fund, of which \$15 million was invested in certificates linked to Xanthos (SPC) – Phi R(squared) Series II Segregated Portfolio (Xanthos II), with the investment carried on the books of Class MM Subfund of Galaxy Fund (Class MM), and \$5 million was transferred to Class MM subsequently.

UCA contributed another \$15 million to Class C Subfund of Anchor Fund also on September 30, 2008, of which \$10 million was invested in certificates linked to Xanthos (SPC) – Phi R(squared) Series I Segregated Portfolio (Xanthos I), with the investment also carried on the books of Class MM, and \$5 million was also transferred to Class MM subsequently.

On March 31, 2009, Class MM invested approximately \$9.4 million in MS Ltd. On May 1, 2009, Class MM contributed its entire investments in Xanthos I and II as in-kind subscription contributions to MS Ltd.; consequently Class MM's investment consisted solely of investment in MS Ltd. at May 1, 2009.

On March 1, 2010, the Directors of Fund MS approved Class MM's request for an in-specie subscription into Fund MS, under which Class MM contributed its entire holdings in MS Ltd. to Fund MS. Consequently, effective March 1, 2010, Fund MS became the sole shareholder of MS Ltd., Class MM became the sole shareholder of Fund MS, and UCA remained the sole shareholder of Class MM.

Fund MS suspended all redemptions effective December 22, 2011 purportedly because MF Global filed for bankruptcy protection on October 31, 2011. The Receiver confirmed that the at-risk amount due to MF Global's bankruptcy ultimately for Fund MS was no more than \$360,000.

The suspension of redemptions from Fund MS was lifted on May 21, 2012. However, as shown under Exhibit 42, Battoo prolonged the suspension by not approving the NAV reports.

On August 27, 2012, Folio provided an estimated Net Asset Value (NAV) report which stated that the NAV of Class MM's shareholding in Fund MS at May 31, 2012 was approximately \$24 million.

Between November 9, 2009 and September 7, 2011, Alliance paid \$2.4 million to UCA. The investor advisor of UCA informed the JOLs that UCA had received limited investment guarantees from Battoo and his company, BC Capital Group Limited of Hong Kong, and that the \$2.4 million sum received by UCA represented the payments for those guarantees.



The Private Placement Memorandum of Fund MS dated December 2010 titled Battoo as a Senior Advisor on the Investment Advisory Board of Fund MS. However, Battoo, as a Senior Advisor of Fund MS, was also capable of suspending the redemptions by not approving the NAV reports and of guaranteeing investment returns to the investor of Fund MS; therefore, it is obvious that Battoo controlled the entire operating, investing, and financing activities of Fund MS.

The investor funds at Alliance totaling \$2.4 million were used to pay another investor, UCA at EFG. This is another example of commingling of investor funds by Battoo.

***Othman Rashid Rezgar***

Between September 21, 2007 and November 10, 2011, Alliance paid approximately \$1.7 million to Othman Rashid Rezgar in Switzerland, who was not an investor. The payments are carried on the CRRs of the BCCG SA/Income account.

***ABA Aston Business Advisory SAGL***

ABA Aston Business Advisory SAGL is located in Lugano Switzerland. Alliance paid \$1,874,436.51 to this entity, of which \$833,669.30 was carried on the CRRs of one of the five Battoo-owned account, BCCG SA/Income, and \$1,040,767.21 was not carried on any CRRs currently available to the Receiver.

As discussed below, BC Capital Group Limited in Hong Kong also paid \$1,771,353.04 to this entity. The documents obtained by the Receiver state that Battoo instructed BC Capital Group Limited to send his share of earnings distributions or advisor fees to ABA Aston Business Advisory SAGL.

***BC Capital Management LLP and BC Capital Group Limited***

According to the CRRs, between February 25, 2008 and October 25, 2011, Alliance paid \$387,500 to BC Capital Management LLP of London, a company of Battoo.

According to the CRRs, between January 27, 2011 and June 5, 2012, Alliance paid \$333,750 to BC Capital Group Limited of Hong Kong, also a company of Battoo. BC Capital Group Limited is discussed in more detail below.

***Bay Management Advisors Ltd.***

Between April 29, 2008 and June 15, 2011, Alliance paid approximately \$0.6 million to Bay Management Advisors Ltd., a company owned by an officer of BCCG, who was in charge of BCCG's Latin American operations.



***Collette Guerra and Related Parties***

Between December 10, 2003 and January 15, 2007, Alliance paid \$64,435 to Collette Guerra, a lady friend of Battoo, and to an individual related to her.

Between March 14, 2005 and October 4, 2011, Alliance paid \$507,500 to Guerra Properties, Inc., a company owned by Collette Guerra.

***Dreamlink Investment Group LLC***

Between August 6, 2003 and July 12, 2006, Alliance paid approximately \$0.5 million to Dreamlink Investment Group LLC, a company of Battoo. Dreamlink Investment Group LLC is discussed in more detail below.

***Nissim Jewelers Inc.***

Between November 18, 2008 and December 1, 2009, Alliance paid approximately \$0.4 million to Nissim Jewelers Inc. located in Florida.

***Kathleen Battoo***

Between April 18, 2005 and November 10, 2010, Alliance paid approximately \$0.4 million to Kathleen Battoo, Battoo’s mother.

**Payments to Parties Related to Battoo**

Cash disbursed to parties related to Battoo and carried on the CRRs of the Battoo-owned accounts at Alliance aggregated to approximately \$18 million. Summarized below are the most significant transactions (amounts in millions):

Sunderlage Resource Group International Ltd.	\$	5.6	
Sovereign International Asset Management, Inc.		5.2	
Empirical Research PTE Ltd.		2.0	
Michael Seabolt and his companies		1.1	
Directors of certain Battoo funds:			
Abel Pacheco	\$	0.93	
Daniel Cann		0.10	
William Harris		0.07	
Francis Florio		<u>0.02</u>	1.1
Andrew Keuls and his company			<u>1.0</u>
			<u><u>\$16.0</u></u>

***Sunderlage Resource Group International Ltd. (Sunderlage)***

Between April 24, 2006 and November 21, 2011, Alliance paid approximately \$5.6 million to Sunderlage, a promoter of PIWM-I investment programs.

***Sovereign International Asset Management, Inc. (SIAM)***

Between March 18, 2004 and March 11, 2010, Alliance paid approximately \$5.2 million to SIAM.

SIAM was the managing member of Anchor Holdings, LLC, an investment advisor and a promoter of PIWM investment programs.

***Empirical Research PTE Ltd. (Empirical)***

According to the CRRs, between March 8, 2006 and June 5, 2012, Alliance paid approximately \$2 million to Empirical, a company in Singapore providing, among other things, trading and execution services to various Battoo-operated/controlled funds.

***Michael Seabolt and His Companies***

Michael Seabolt was Battoo's U.S. personal assistant. Between March 18, 2004 and June 14, 2011, Alliance paid approximately \$1.1 million to Michael Seabolt and two of his companies, Bolt Capital Group Inc. and Bolt Capital Consultants Inc.

***Directors of Certain Battoo Funds***

Between August 28, 2009 and September 26, 2011, Alliance paid \$925,000 to Abel Pacheco.

Between March 30, 2004 and December 1, 2010, Alliance paid \$120,000 to Daniel Cann.

Between June 15, 2006 and November 20, 2009, Alliance paid \$70,000 to William Harris.

Between January 25, 2011 and April 24, 2012, Alliance paid \$15,300 to Francis Florio.

Payments to the above directors aggregated to \$1,130,300. As noted above, the directors should have been paid directly by the Funds, not from the Funds' Senior Advisor who diverted investor funds to make these payments.

*Andrew Keuls and His Company*

Andrew Keuls was the former business associate of Battoo. Between June 3, 2003 and February 16, 2011, Alliance paid approximately \$1 million to Andrew Keuls and his company, Filipina Inc. As discussed below, Filipina, Inc. was paid approximately \$1.4 million between October 17, 2006 and September 15, 2009 from a BC Capital Group Limited's bank account at Standard Chartered Bank in Hong Kong.

**66 PIWM/PIWM-I Portfolios and Five Battoo-Owned Accounts Viewed as a Single Business Managed by Battoo and under Custody of Alliance**

**Combined Summary of Activities**

Under Exhibit 43 is a combined summary of activities carried on the CRRs viewing the 66 PIWM/PIWM-I Portfolios and the five Battoo-owned accounts as a single business or a single economic entity, i.e., an investment company with Battoo as the manager and Alliance as the custodian, with all inter-customer-account relationships eliminated for the period from April 10, 2003 (initial date of recording) to July 31, 2012 (last date of recording). The notes to the combined summary are under Exhibit 44. The combined summary is highlighted as follows (amounts in millions):

	<u>Amounts</u>	<u>%</u>
Receipts from participants	\$217.1	100.00%
Payments to participants	<u>(96.9)</u>	-44.63%
Net receipts from participants	\$120.2	
Other receipts	5.5	2.53%
Purchase of Battoo-operated/controlled funds	(83.0)	-38.23%
Proceeds from sale of Battoo-operated/ controlled funds	<u>46.2</u>	21.28%
Net balance	(36.8)	
Other investing activities, net	(5.5)	-2.53%
Payments to or for Battoo	(45.7)	-21.05%
Payments to parties related to Battoo	(18.3)	-8.43%
Other payments	(16.0)	-7.37%
Withdrawals shown on the CRRs but not on bank statements	<u>(2.9)</u>	<u>-1.34%</u>
Balance at end of period	<u>\$ 0.5</u>	<u>0.23%</u>

The above summary shows that according to all CRRs currently available to the Receiver and the Alliance's omnibus bank accounts, for every \$100 received from the investors, just \$38.23 was invested in Battoo-operated/controlled funds, \$21.05 was paid to or for Battoo, \$8.43 was paid to parties related to Battoo, and \$7.37 was spent for other purposes.

### **Receipts from Participants**

Receipts from participants aggregated to approximately \$217.1 million. In addition to investing in Battoo-operated/controlled funds indirectly through Alliance, Anchor Holdings, LLC, a U.S. participant, also invested directly in Battoo funds by wire transferring funds directly from its bank account in the U.S. to EFG.

Between February 17, 2006 (the initial date with Anchor Holdings, LLC's U.S. banking records available to the Receiver) and November 5, 2010, Anchor Holdings, LLC disbursed approximately \$28.3 million to and received approximately \$15.9 million from EFG in connection with its direct investments in Battoo funds.

As discussed above, UCA contributed \$35 million on September 30, 2008 in connection with its ultimate investment in Fund MS, a Battoo operated/controlled fund. The \$35 million subscription contributions did not flow through Alliance; however, Battoo used \$2.4 million of investor funds under custody of Alliance to pay UCA certain investment returns as guaranteed by Battoo.

### **Investments in Battoo-Operated/Controlled Funds**

Purchase and sale of Battoo funds amounted to approximately \$83 million and \$46.2 million, respectively, and are summarized under Exhibit 45.

Trading in Battoo funds was executed by Alliance under the instructions of Battoo. See samples of Battoo's instructions under Exhibit 46.

### **Cash Balance at July 31, 2012**

Cash balance at July 31, 2012 was \$456,816.92 and was comprised of the following:

PIWM Portfolios with period-end balances greater than \$0	\$ 27,264,671.75
PIWM-I Portfolios with period-end balances greater than \$0	24,277,050.44
PIWM/PIWM-I Portfolios with period-end balances greater than 1 Battoo-owned account with period-end balance greater than \$0	<u>51,541,722.19</u> <u>67,821.81</u>
Subtotal	<u>51,609,544.00</u>
PIWM Portfolios with period-end balances less than \$0	(6,269,636.00)
PIWM-I Portfolios with period-end balances less than \$0	<u>(11,507,399.65)</u> <u>(17,777,035.65)</u>
4 Battoo-owned accounts with period-end balances less than \$0	<u>(33,375,691.43)</u>
Subtotal	<u>(51,152,727.08)</u>
Net balance	<u>\$ 456,816.92</u>

When questioned by the JOLs regarding the negative period-end balances, Alliance stated that it viewed all PIWM/PIWM-I Portfolios and Battoo-owned accounts under its custody as one customer, namely, Battoo.

Subsequent to July 31, 2012, the \$456,816.92 cash balance at Alliance was used to pay the liquidator who was replaced by the JOLs.

**Transactions Carried on the CRRs but Not Shown on Alliance’s Omnibus Bank Accounts or Vice Versa**

**Deposits Carried on the CRRs but Not Shown on the Bank Statements**

Deposits carried on the CRRs but not shown on the bank statements are summarized as follows:

A PIWM-I portfolio	11/02/05	Fidelity Insurance Co. (MN)	\$ 69,723.26
BCCG SA/TS	04/11/03 to 09/28/07	P. 2, Note 3, Exhibit 37	794,023.74
BCCG SA/Income	10/31/11	P. 2, Note 3, Exhibit 37	<u>174,885.00</u>
			<u><u>\$ 1,038,632.00</u></u>

**Withdrawals Carried on the CRRs but Not Shown on the Bank Statements**

Withdrawals carried on the CRRs but not shown on the bank statements are summarized as follows:

Various PIWM/ PIWM-I portfolios	02/07/06 to 05/06/11	-	\$ (77,433.37)
BCCG SA/TS	09/08/03 to 08/05/08	P. 3, Note 3, Exhibit 37	(1,614,758.90)
BCCG SA/TS II	07/19/07 to 08/05/08	P. 3, Note 3, Exhibit 37	(73.01)
BCCG SA/Income	04/07/04 to 06/27/12	P. 3, Note 3, Exhibit 37	(1,146,450.03)
BCCGI SA/Income	01/18/08 to 06/10/08	P. 4, Note 3, Exhibit 37	<u>(38,208.09)</u>
			<u><u>\$ (2,876,923.40)</u></u>

These withdrawals may represent custodian fees charged by Alliance and/or transactions with other accounts maintained at Alliance and related to Battoo. The Receiver learned from other JOLs in Bahamas that Alliance maintained at least six other accounts for Battoo. Alliance refused to turn over any information about these accounts to the JOLs. As discussed below, at least one of these other Battoo-owned accounts, Aquarius Holdings Ltd., also received contributions from participants who intended to invest in Battoo-operated/controlled funds through Alliance. The Receiver is in the process of obtaining CRRs from Alliance regarding these accounts.

**Deposits Shown on the Bank Statements but Not Carried on the CRRs**

Deposits shown on the bank statements but not carried on the CRRs are summarized as follows:

Folio Administrators Ltd.	10/15/10 to 10/31/11	P. 5, Note 6, Exhibit 37	\$ 501,209.67
FuturesOne Innovative Capital Pool	05/26/03 to 06/02/03	P. 1, Note 2, Exhibit 44	933,859.47
Anchor Hedge Fund Ltd.	07/25/12	P. 2, Note 2, Exhibit 44	1,599,987.50
FuturesOne Diversified Fund Ltd.	02/09/11 to 05/15/12	P. 2, Note 2, Exhibit 44	471,241.73
FuturesOne Diversified Fund SPC Ltd.	05/25/11 to 01/06/12	P. 2, Note 2, Exhibit 44	1,590,394.93
FuturesOne Innovative Fund SPC Ltd.	02/09/11 to 05/04/12	P. 3, Note 2, Exhibit 44	712,802.80
Galaxy Fund Inc.	11/26/10 to 04/04/12	P. 3, Note 2, Exhibit 44	<u>540,448.33</u>
			<u>\$ 6,349,944.43</u>

One plausible explanation for bank deposits not carried on the CRRs is that these deposits are carried on other accounts Alliance did not produce to the JOLs.

**Payments Shown on the Bank Statements but Not Carried on the CRRs**

Payments shown on the bank statements but not carried on the CRRs are summarized as follows:

Payments to or for Battoo	01/15/04 to 07/31/12	P. 8, Note 8, Exhibit 37	\$ (2,093,343.33)
Payments to parties related to Battoo	10/03/03 to 09/18/12	P. 8, Note 8, Exhibit 37	(1,398,353.66)
Other payments	08/31/09 to 07/27/12	P. 8, Note 8, Exhibit 37	(136,612.80)
Anchor Hedge Fund Ltd.	06/27/03 to 08/21/03	P. 4, Note 2, Exhibit 44	(375,000.00)
Two Oceans Fund Ltd.	03/05/08	P. 4, Note 2, Exhibit 44	<u>(600,000.00)</u>
			<u>\$ (4,603,309.79)</u>

Included in "Payments to or for Battoo" as shown in the schedule above are payments to Aquarius Holdings Ltd. totaling \$508,000 between January 15, 2004 and February 28, 2006. The email exchange between Battoo and Alliance on January 17, 2003 as shown under Exhibit 47 indicates that Aquarius Holdings Ltd. is Battoo's company. Alliance refused to provide the JOLs the information about Aquarius Holdings Ltd.

One of the participants who received redemption withdrawals from Alliance with the payments recorded to the CRRs of the BCCG SA/TS account claimed to the JOLs that he had been instructed to make subscription contributions to Alliance for the benefit of Aquarius Holdings Ltd.

### **Misrepresentation of Investment Performance to the Participants of PIWM/PIWM-I Investment Programs by Battoo**

The nominee institutional investors received NAV reports in connection with their investments in the PIWM/PIWM-I investment programs and subsequently provided the information to the respective beneficial individual investors.

### **NAV Reports to Participants of Three Maven Assurance Ltd.'s PIWM-I Portfolios**

Under Exhibit 48 is schedule of assets shown on the December 31, 2009 portfolio statements with Alliance's logo in connection with three PIWM-I portfolios of Maven Assurance Ltd. (Maven Assurance). It is summarized as follows (amounts in millions):

	<b>Portfolios</b>			<b>Com- bined</b>
	<b>A</b>	<b>B</b>	<b>C</b>	
Battoo-operated/controlled funds	\$0.1	\$ 4.3	\$ 2.0	\$ 6.4
Third-party mutual funds	0.5	37.2	14.1	51.8
Managed accounts at Alliance	0.2	9.0	3.8	13.0
Cash & money funds	0.2	2.7	0.5	3.4
Total	<u>\$1.0</u>	<u>\$53.2</u>	<u>\$20.4</u>	<u>\$74.6</u>

Under Exhibit 49 is a sample December 31, 2009 portfolio statement of Maven Assurance (B). The logo of Alliance is shown on the statement.



**NAV Reports to Participants of Three Maven Life International Ltd.'s PIWM-I Portfolios**

Under Exhibit 50 is schedule of assets shown on the December 31, 2009 portfolio statements with Alliance's logo in connection with three PIWM-I portfolios of Maven Life International Ltd. (Maven Life). It is summarized as follows (amounts in millions):

	<u>Portfolios</u>			<b>Com- bined</b>
	<b>G</b>	<b>AG</b>	<b>MN</b>	
Battoo-operated/controlled funds	\$0.3	\$0.1	\$0.2	\$0.6
Third-party mutual funds	2.4	0.4	1.1	3.9
Managed accounts at Alliance	0.7	0.1	0.3	1.1
Cash & money funds	<u>0.2</u>	<u>0.1</u>	<u>0.1</u>	<u>0.4</u>
Total	<u>\$3.6</u>	<u>\$0.7</u>	<u>\$1.7</u>	<u>\$6.0</u>

**Fabricated Asset Values Reported to Participants of Six PIWM-I Portfolios by Approximately \$62.2 Million**

The Receiver reviewed the respective CRRs and SRRs in connection with the six PIWM-I portfolios of Maven Assurance and Maven Life. Under Exhibit 51 is a schedule comparing assets carried on the portfolio statements and on the CRRs/SRRs. It is summarized as follows (amounts in millions):

	<b>Portfolio</b>		
	<b>State- ments</b>	<b>CRRs/ SRRs</b>	<b>Vari- ance</b>
Battoo-operated/controlled funds	\$ 7.0	\$ 8.4	\$ (1.4)
Third-party mutual funds	55.7	-	55.7
Managed accounts at Alliance	14.1	-	14.1
Cash & money funds	<u>3.8</u>	<u>10.0</u>	<u>(6.2)</u>
Total	<u>\$ 80.6</u>	<u>\$ 18.4</u>	<u>\$ 62.2</u>

Alliance informed the JOLs that “managed accounts” at Alliance included substantial investments in Battoo-operated/controlled funds. It is not clear why investments in Battoo funds were shown as two separate line items on the portfolio statements. Also, none of the investments in third-party funds shown on the portfolio statements were carried on either the CRRs or the SRRs.

### **Portfolio Statements with Alliance’s Logo were All Prepared by Battoo**

Under Exhibit 52 is an e-mail communication between Michael Seabolt, Battoo’s U.S. personal assistant, and the Vice President of Alliance on February 15, 2010 regarding the sending of Alliance’s “Letterhead.” This email states in part “When you get a chance please send me another batch of the AIM letterhead as you did last time (same amount, about 150, would be good). Send it to the address of record you have for Nik, Galt Ocean.”

Under Exhibit 53 is an e-mail communication from Michael Seabolt to the same officer of Alliance on September 17, 2010 also regarding the sending of Alliance’s “Letterhead.” This email states in part “stuff runs like water...send some more along when you can.”

It is clear that Battoo controlled the preparation of “Alliance’s” portfolio statements which reported the overstated asset values to portfolio participants.

### **Independent Financial and Asset Verification Reports for Fabricated December 31, 2009 Asset Values Issued by an Accounting Firm in Switzerland**

Battoo engaged an accounting firm in Switzerland to perform certain agreed-upon procedures in connection with the asset values of 20 PIWM/PIWM-I portfolios at December 31, 2009.

Under Exhibit 54 is a communication from Battoo to Alliance dated September 22, 2010 regarding what information Alliance was to provide to the accounting firm for the agreed-upon procedures to be performed on one of the 20 PIWM/PIWM-I portfolios, Private International Wealth (G) (PIW (G)).

Under Exhibit 55 is an e-mail communication from Battoo to Alliance dated October 12, 2010 regarding PIW (G) with two attachments, (1) CRR for December 2009, which was different than the CRR provided by Alliance to the JOLs and (2) portfolio statement of PIW (G) for asset values at December 31, 2009. It is clear from this email and the attachments thereto, that Battoo was directing Alliance to provide his accounting firm false information that was prepared by Battoo.

Under Exhibit 56 is the Independent Financial and Asset Verification Report (Asset Verification Report) regarding asset values of PIW (G) at December 31, 2009. The values listed under “Value on Alliance statement”, column 4 on Annex II of the report, mirrored that shown under “Current Value”, column 6 of the portfolio statement prepared by Battoo.

Therefore, it is clear that procedurally, the accounting firm in Switzerland obtained the unit quantities of the mutual funds from an “independent” source, Alliance, applied unit prices from the audit reports of various mutual funds, and arrived at the computed asset values. The end users of the Asset Verification Reports obtained false asset values as many unit quantities supplied to Alliance by Battoo were non-existent.

Under Exhibit 57 is a schedule comparing assets carried on the Asset Verification Reports for 20 PIWM/PIWM-I portfolios and on the CRRs/SRRs. It is summarized as follows (amounts in millions):

	<b>Asset Verification Reports</b>	<b>CRRs/ SRRs</b>	<b>Vari- ance</b>
Battoo-operated/controlled funds	\$ 7.5	\$ 16.6	\$ (9.1)
Third-party mutual funds	66.9	-	66.9
Managed accounts at Alliance	29.3	-	29.3
Cash & money funds	<u>5.4</u>	<u>5.8</u>	<u>(0.4)</u>
Total	<u>\$ 109.1</u>	<u>\$ 22.4</u>	<u>\$ 86.7</u>

The above summary shows that asset values at December 31, 2009 reported to participants of 20 PIWM/PIWM-I portfolios with certain “comfort” provided by an independent accounting firm were overstated by approximately \$86.7 million.

In summary, asset values totaling approximately \$189.7 million (i.e., \$80.6 million + \$109.1 million) at December 31, 2009 as reported to participants of six portfolios of Maven Assurance and Maven Life and 20 other PIWM/PIWM-I portfolios were overstated by approximately \$148.9 million (i.e., \$62.2 million + \$86.7 million).

### **BC Capital Group Limited**

BC Capital Group Limited was formed in Hong Kong on February 20, 2004 by Andrew Keuls as instructed by Battoo to hold ownership interests in management companies of various Battoo Funds and to manage the Phi R(squared) Series structured notes. Dreamlink Global Holdings III S.A. in Panama, a company of Battoo, and Andrew Keuls hold 90% and 10% ownership interests in BC Capital Group Limited, respectively, and Abel Pacheco is the current director.

BC Capital Group Limited maintained accounts at Standard Chartered Bank in Hong Kong (operated by Andrew Keuls), HSBC Private Bank in the Principality of Monaco (operated by Battoo) and First Curacao International Bank in Netherlands Antilles.

Below is a summary of cash receipts and disbursement of the accounts at Standard Chartered Bank in Hong Kong for the period from June 5, 2006 to April 13, 2013 prepared by the Receiver based on its review of bank records. It is summarized as follows:

**CASH RECEIPTS:**

Phi R(squared) Series 1	\$ 5,098,331.69	
Phi R(squared) Series 2	3,269,478.90	
Phi R(squared) Series 3	<u>460,826.68</u>	
Subtotal		\$ 8,828,637.27
Management fees		469,051.52
Folio Administrators Ltd.		337,436.58
Two Oceans Fund		85,341.07
Filipina Inc.		37,276.55
Other receipts		<u>211,840.25</u>

TOTAL CASH RECEIPTS		<u>9,969,583.24</u>
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**CASH DISBURSEMENTS:**

"BC Capital Group"	(2,527,021.68)	
"BC Capital Man"	(562,500.00)	
"BC- HSBC Monaco - 58467"	<u>(71,742.07)</u>	
Subtotal		(3,161,263.75)
"ABA Aston Busi"		(1,771,353.04)
Andrew Keuls and Filipina Inc.		(1,478,282.60)
A S T Securities		(1,244,444.44)
Anchor Fund	(350,475.00)	
Galaxy Fund	(132,400.00)	
Diversified Fund	<u>(107,600.00)</u>	
Subtotal		(590,475.00)
Unknown payments		(601,272.32)
Reed Smith LLP		(424,290.34)
Other payments		<u>(685,818.54)</u>

TOTAL CASH DISBURSEMENTS		<u>(9,957,200.03)</u>
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<b>NET RECEIPTS</b>		<u><u>\$ 12,383.21</u></u>
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The Receiver believes that the \$469,051.52 in management fees was received from the management companies of various Battoo Funds; the \$562,500 in payments to “BC Capital Man” was referring to payments to BC Capital Management LLP, a company of Battoo in London; and the \$71,742.07 in payments to “BC- HSBC Monaco – 58467” was referring to transfers to BC Capital Group Limited’s account at HSBC Private Bank in the Principality of Monaco controlled by Battoo.

The Receiver is investigating the actual entity name of “BC Capital Group” which received \$2,527,021.68 from BC Capital Group Limited.

The Receiver believes that the \$1,771,353.04 in payments to “ABA Aston Busi” was referring to payments to ABA Aston Business Advisory SAGL. As discussed above, Battoo instructed BC Capital Group Limited to send his share of earnings distributions or advisor fees to ABA Aston Business Advisory SAGL. This entity also received \$1,874,436.51 from Alliance.

Reed Smith LLP was the law firm representing BC Capital Group Limited for a lawsuit in connection with the Phi R(squared) Series structured notes.

## **Two Battoo’s Companies in Florida**

### **Dreamlink Investment Group LLC**

Dreamlink Investment Group LLC (Dreamlink Investment) is a company Battoo formed in the state of Florida on August 21, 2001.

The Receiver reviewed the subpoenaed bank records of Dreamlink Investment for the period from April 1, 2006 (the initial date with available bank records) to August 31, 2012. Under Exhibit 58 is a summary of cash receipts and disbursements of Dreamlink Investment with a schedule itemizing receipts from Folio and a schedule itemizing management fee and other payments to Dreamlink Enterprises Inc., another company of Battoo discussed below. It is summarized as follows:

**CASH RECEIPTS:**

Folio Administrators Ltd.	\$ 2,771,793.29
Abel Pacheco	128,000.00
Galloper Corporation	55,000.00
Alliance	<u>42,000.00</u>
<b>TOTAL CASH RECEIPTS</b>	<u><b>2,996,793.29</b></u>

**CASH DISBURSEMENTS:**

Dreamlink Enterprises Inc.:	
Management fees	(2,895,200.00)
Other purposes	<u>(180,468.20)</u>
Total payments to Dreamlink Enterprises Inc.	(3,075,668.20)
Other expenses	<u>(2,135.54)</u>
<b>TOTAL CASH DISBURSEMENTS</b>	<u><b>(3,077,803.74)</b></u>
<b>NET DECREASE IN CASH</b>	(81,010.45)
<b>CASH, BEGINNING OF PERIOD</b>	<u>81,531.93</u>
<b>CASH, END OF PERIOD</b>	<u><u>\$ 521.48</u></u>

As discussed on page 45 of this report, an officer of Folio informed the JOLs that Battoo maintained an account at Folio and collected management fees charged by Battoo against the Battoo-operated/controlled funds and dividend income from the manager of Galaxy Fund, Galaxy Capital Management Ltd.

Battoo acquired ownership interest in Galaxy Capital Management Ltd. using investor funds of \$3.2 million collected by Alliance. Under the instruction from Battoo, Folio sent the funds in its customer account totaling approximately \$2.8 million to Dreamlink Investment between May 16, 2006 and October 8, 2010. Battoo improperly used investor funds at Alliance to acquire ownership interest in the managing company of Galaxy Fund and collected the dividend income personally.

As detailed on page 50 of this report, Abel Pacheco was a director of certain Battoo funds and received \$925,000 from Alliance between August 28, 2009 and September 26, 2011.

Galloper Corporation is a company in Panama and Abel Pacheco is a director. As shown on Exhibit 36 and 37, between October 26, 2011 and July 9, 2012, Alliance paid \$490,000 to

Galloper Corporation, of which \$300,000 was not carried on any CRRs known to the Receiver.

### **Dreamlink Enterprises Inc.**

Dreamlink Enterprises Inc. (Dreamlink Enterprises) is a company Battoo formed in the state of Florida on January 24, 2000.

The Receiver reviewed the subpoenaed bank records of Dreamlink Enterprises for the period from April 1, 2006 (the initial date with available bank records) to August 31, 2012. Under Exhibit 59 is a summary of cash receipts and disbursements of Dreamlink Enterprises with a schedule itemizing payments to Collette Guerra, a lady friend of Battoo. It is summarized as follows:

#### **CASH RECEIPTS:**

Dreamlink Investment:	
Management fees	\$ 2,895,200.00
Other purposes	<u>180,468.20</u>
Total receipts from Dreamlink Investment	3,075,668.20
Other receipts	<u>39,887.92</u>
<b>TOTAL CASH RECEIPTS</b>	<u><u>3,115,556.12</u></u>
<b>CASH DISBURSEMENTS:</b>	
American Express	(1,568,145.71)
Battoo	(752,000.00)
Collette Guerra	(85,389.88)
Other expenses	<u>(828,457.52)</u>
<b>TOTAL CASH DISBURSEMENTS</b>	<u><u>(3,233,993.11)</u></u>
<b>NET DECREASE IN CASH</b>	(118,436.99)
<b>CASH, BEGINNING OF PERIOD</b>	<u>126,635.12</u>
<b>CASH, END OF PERIOD</b>	<u><u>\$ 8,198.13</u></u>

Between April 19, 2006 and January 30, 2012, Dreamlink Enterprises made monthly payments to Collette Guerra totaling \$85,389.88. As discussed above, Alliance paid Collette Guerra and parties related to her totaling \$571,935 between December 10, 2003 and October 4, 2011.

## Update on Activities in Foreign Jurisdictions

### The Commonwealth of The Bahamas

As previously reported, on November 12, 2012 the Chief Justice of the Bahamas Supreme Court appointed Kevin D. Seymour and Kevin G. Cambridge of PwC and Brick Kane<sup>9</sup> of Robb Evans & Associates LLC as Joint Official Liquidators (JOLs) of BCCG and BCCGI.

In his ruling the Chief Justice stated the following:

“Moreover, in my judgment it is in the interest of the companies that there should be cooperation between the work of the Receiver and that of the Liquidator. It serves no purpose for both of them to be going after assets separately. The creditors are not served by two different persons seeking to recover the same assets one in the capacity of a Receiver and another in the capacity as a Liquidator.”

In keeping with the spirit of the Chief Justice’s ruling, the Receiver and the Receiver’s Member, who is one of the JOLs, have worked very closely with the two PwC Insolvency Practitioners to minimize duplication of efforts in the Bahamas. Moreover, with the approval of the Bahamas Supreme Court, there has been cooperation between the JOLs and the Securities Commission of the Bahamas regarding certain matters of mutual investigatory interest.

The PwC JOLs and their associates have performed substantial forensic accounting work on books and records made available by Alliance. The Receiver has finalized the initial work performed by the PwC JOLs.

Also as previously reported, among the documents retrieved by the JOLs are two share purchase agreements executed by Alliance and Battoo on behalf of BCCG. On June 11, 2010 and December 1, 2011 BC Capital Group S. A. obtained Alliance Class “A” non-voting preference shares in the amounts of \$2 million and \$3 million, respectively. These were not cash transactions, and are described in the notes to Alliance’s audited financial statements as “in-kind transactions.” The JOLs are considering their options regarding these transactions.

The Receiver is working on an application to be presented to the Bahamas Supreme Court for recognition over the Battoo-related accounts that Alliance refused to provide access to the JOLs.

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<sup>9</sup> This Court authorized this appointment on October 31, 2012.



## **Bailiwick of Guernsey**

As previously reported, the Receiver engaged local counsel for the purpose of obtaining a recognition order in the local court over assets held by EFG. However, the Receiver learned that the BVI Liquidators obtained a recognition order from the Royal Court of Guernsey.

Upon learning of the action taken by the BVI liquidators, it was determined the most expeditious manner in which to block funds from being released by EFG would be for the JOLs to seek recognition of the Bahamas liquidation. The JOLs sought and obtained permission for this from the Bahamas Supreme Court on December 6, 2012.

On December 7, 2012 the JOLs were recognized by the Royal Court in Guernsey.

The Receiver's pursuit of recognition in Guernsey was declined by the Royal Court. The Receiver is considering its options, which include an appeal.

Substantially all funds controlled or related to Battoo maintain accounts at EFG. Those funds are now the subject of a highly contested interpleader action.

## **Hong Kong**

As previously reported the Receiver confirmed there are no current operations being conducted in Hong Kong. The business address in the official records the Receiver located in the Hong Kong corporate registry belongs to an accounting firm.

On April 16, 2013 a member of the Receiver's company was appointed as Interim Receiver over the Hong Kong BC Common enterprise companies<sup>10</sup> (Exhibit 60). The Hong Kong Order specifies certain receivership assets, including a bank account at HSBC Private Bank in the Principality of Monaco.

## **Principality of Monaco**

As previously reported, the Receiver engaged local counsel for the purpose of dealing with assets that are located at HSBC. The PwC JOLs have noted transfers of funds from Alliance to HSBC in Monaco. The bank accounts at HSBC in Monaco are related to BC Capital Group Limited and BC Capital Group International Limited, both incorporated in Hong Kong. On October 24, 2012 the Receiver's counsel wrote to the bank directing it to turn over control of the accounts and to produce records. The Receiver has been advised that there is slightly less than \$1 million in the bank. The bank refused to turn over the funds.

On December 5, 2012 the Receiver filed a motion for recognition. On December 7, 2012 the Court for the Principality of Monaco denied the Receiver's application. The rejection of

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<sup>10</sup> This Court authorized this appointment on February 12, 2013.

the Receiver's application was based on the fact that there is a money laundering investigation involving these funds being conducted by the Principal State Prosecutor.

More recently, the Receiver, armed with the Hong Kong Order, made another attempt at recognition. That application was declined due to the criminal investigation.

The Receiver intends to continue its pursuit of these for the benefit of the investors.

### **Panama**

There were no business operations or assets in Panama. As previously reported, the Receiver engaged local counsel with the intent of seeking local recognition of the JOLs. Based on subsequent advice as to the complexity and expense of a recognition process, the Receiver and the JOLs determined the costs outweighed any potential benefits.

### **Cayman Islands**

The Receiver engaged local counsel for the purpose of notifying two investment management companies managing three Battoo operated funds formed in February 2010 and advising them of this Court's Order and requesting any funds, information, or documents in their possession. There has been no response to these letters and it is not clear if these management companies still exist.

The Receiver and its Cayman counsel are in the final stages of documenting an agreement with a Cayman Fund that will result in a recovery of about \$80,000.

### **Other Matters**

#### **MF Global Inc. Claims**

From the Folio documents, the Receiver learned that pre-receivership claims had been filed in the MF Global, Inc. (MF Global) bankruptcy estate. The Receiver established contact with the Trustee for the Liquidation of MF Global and was notified the Receiver has pending claims totaling approximately \$912,000, although the ultimate value of the claims is not certain. The Receiver is taking steps to receive any funds disbursed by the Trustee.

#### **Madoff Feeder Funds**

On November 18, 2013 the U.S. Department of Justice announced availability of a \$2.35 billion fund to partially compensate investors who invested in the Madoff fraud through feeder funds. The Receiver has determined that Battoo invested more than \$98 million in

the Madoff fraud through feeder funds. The Receiver is in the process of determining how to lodge claims with the Department of Justice fund administrator.

### **Battoo's Safe Deposit Boxes**

By serving banks with this Court's Order appointing the Receiver, the Receiver learned of three safe deposit boxes under Battoo's name held at Wells Fargo Bank and New York Community Bank in Florida. The Receiver made arrangements with both banks to drill the safe deposit boxes. None of the three safe deposit boxes contained any contents.

### **Battoo's Public Storage Unit in Ft. Lauderdale, FL**

The Receiver's forensic examination of American Express statements in the name of Dreamlink Enterprises/Battoo revealed payments for a storage unit. In July 2013 the Receiver contacted the storage facility and learned payments were delinquent and that an auction had been scheduled by the owner of the facility. The Receiver examined the contents of the storage unit and determined there were no business records in either electronic or paper format and the estimated value of the contents was diminimus. Subsequently, the contents of the unit were auctioned by the facility's owner and excess funds of \$1,088.32 were turned over to the Receiver.

### **Turnover of Jewelry and purses by Collette Guerra**

Ms. Guerra agreed to turn over some jewelry and two purses to the Receiver. The Receiver is currently arranging a valuation by a professional.

### **Conclusion**

More than 800 worldwide investors responded to the marketing and promotion activities of Battoo and the BC Common Enterprise and forwarded \$340.0 million to invest in Battoo operated/controlled and investment funds. In this report the Receiver has described and documented reckless and improper management that resulted in commingling and transferring funds among institutions and investments, substantial investment losses, large unreported payments for personal expenses and to related parties, and misrepresenting investment performance to independent accounting firms and investors.

Battoo presented himself as the Senior Advisor of the Battoo funds. However, his actual and continuing role, as described above, was to direct and control all operating, investing, and financing activities of the BC Common Enterprise and the related investment companies, including custodians, sub custodians, investment advisors, and portfolio administrators. By controlling all investing and financing activities of the funds Battoo operated them as one investment pool on a commingled basis.

After reviewing and analyzing thousands of bank, accounting, and other records, the Receiver has reconstructed the results of Battoo's management of the \$340.0 million entrusted to him for investment. Battoo returned \$119.5<sup>11</sup> million to investors, often taking subscription contributions from one investor to fund the redemption withdrawals by another. Known investment losses totaled another \$69.3million.

Of the remaining \$123.2 million, \$64 million was diverted to or for Battoo's benefit, or to related parties, and another \$16 million was used for various other payments. Other fees and expenses net of other income consumed another \$11.3 million.

The Receiver has recovered approximately \$27 million. There is an additional \$15.9 million in cash at EFG. In addition to the cash at EFG, there are securities positions totaling approximately \$10 million<sup>12</sup>. Another approximately \$1 million is frozen in Monaco.

From all of the information available to the Receiver, it appears investors may be owed at least \$250 million and the potentially available assets will be 20% or less of the amount owed.

In conclusion, the Receiver believes that Battoo operated the BC Common Enterprise as a Ponzi-type fraudulent common enterprise.

Respectfully submitted,

/s/

Robb Evans & Associates LLC  
Receiver

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<sup>11</sup> Some of these returns were payments in excess of the amounts that investors placed with Battoo. Pending receipt of additional documents from financial institutions and investors, the Receiver is not yet able to accurately compute the total investor net out of pocket losses.

<sup>12</sup> Folio documents show this amount as of June, 2012.