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23 **UNITED STATES DISTRICT COURT**
24 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
25 **SOUTHERN DIVISION**

26 _____)
27)
28 **U.S. COMMODITY FUTURES**)
29 **TRADING COMMISSION**)
30) **CIVIL ACTION NO.**
31 **Plaintiff,**) **SACV07-1437 CFC (RNBx)**
32)
33)
34 **FOREX LIQUIDITY LLC.**)
35)
36 **Defendant**)
37 _____)
38

Unopposed Motion by Plaintiff Commodity Futures Trading Commission for An
Enlargement of Time for Defendant to Answer or Respond, and for a Temporary
Stay or Modification of Timetable for Rule 26(f) Discovery Conference and
Issuance of Rule 16 Scheduling Order
Case No. SACV 07-1437 CFC (RNBx)

1 **Unopposed Motion by Plaintiff Commodity Futures Trading Commission for**
2 **An Enlargement of Time for Defendant to Answer or Respond, and for a**
3 **Temporary Stay or Modification of Timetable for Rule 26(f) Discovery**
4 **Conference and Issuance of Rule 16 Scheduling Order**

5
6 Plaintiff Commodity Futures Trading Commission (“Commission”) and
7 Robb Evans & Associates, LLC, the Receiver, on behalf of Forex Liquidity
8 (“FXLQ”), respectfully move this Court pursuant to Fed. R. Civ. Proc. 6 and L.R.
9 16.1 for an enlargement of time of an additional 60 days for defendant Forex
10 Liquidity to answer or otherwise respond to the Complaint, and for a temporary
11 stay or modification of the timetable for a discovery conference pursuant to Fed. R.
12 Civ. Proc. 26(f) and for the issuance of a Scheduling Order pursuant to Fed. R.
13 Civ. Proc. 16. The CFTC and the Receiver have had discussions with the attorneys
14 for Robert Gray (“Gray”), the principal shareholder and president of FXLQ, and
15 Gray’s attorneys have no objection to this Motion.¹ In support of this Motion, the
16 CFTC states as follows:

17 1. On December 13, 2007, the Commission filed the Complaint in this
18 case alleging that defendant FXLQ was violating the net capitalization
19 requirements imposed upon it as a registered futures commission merchant

¹ Gray is represented by John Cotton, Esq. of Cotton & Gundzik LLP and
Christine A. Scheuneman, Esq. of the firm Pillsbury Winthrop Shaw Pittman LLP.

1 (“FCM”) pursuant to the Commodity Exchange Act, as amended (the “Act”),
2 7 U.S.C. § 13a-1 (2002), and the Commission’s Regulations, 17 C.F.R. §§ 1 *et.*
3 *seq.* On December 14, 2007, the Court issued an *Ex Parte* Statutory Restraining
4 Order (“SRO Order”) freezing FXLQ’s assets and books and records, and
5 appointing Robb Evans & Associates LLC as Temporary Receiver over FXLQ.

6 2. Prior to the filing of the Complaint and the issuance of the SRO
7 Order, defendant FXLQ was subject to a Membership Responsibility Action issued
8 by the National Futures Association (“NFA”), which by its terms prohibited
9 FXLQ, which is and remains a member of the NFA, from conducting any business
10 as a registered FCM, including a prohibition on the solicitation or acceptance of
11 any orders from customers to trade with or through FXLQ. The terms of that
12 MRA continue in effect.

13 2. Since the issuance of the SRO Order, the Receiver has devoted
14 significant efforts towards accomplishing the tasks involved in administering the
15 Receivership. Those efforts, which include marshalling and preserving the assets
16 of FXLQ, and conducting an accounting of FXLQ’s assets and liabilities and
17 seeking to determine the facts relating to FXLQ’s net capitalization, are described
18 in considerable detail in the Interim Report submitted by the Receiver on February

1 4, 2008.

2 3. The Court's SRO authorized the Receiver to conduct discovery in
3 furtherance of the Receiver's duties, and the Receiver has been actively engaged in
4 such discovery to facilitate its efforts to complete an accounting of FXLQ's assets
5 and liabilities.

6 4. As noted in the Receiver's Interim Report, FXLQ has approximately
7 \$25.8 million dollars in cash, but nevertheless, based upon information uncovered
8 to date, the Receiver has concluded that FXLQ does not have adequate assets to
9 comply with net capital requirements to act as a registered futures commission
10 merchant ("FCM"). A number of issues remain to be resolved with regard to an
11 accounting of all of FXLQ's liabilities and assets. The Receiver nevertheless
12 believes that within the next 60 days, it may have assembled sufficient information
13 and documentation to submit a report and recommendation to the Court for a
14 proposed interim distribution of funds to FXLQ's customers, whose accounts at
15 FXLQ have been frozen pursuant to the SRO. While the Receiver at this time
16 cannot commit to any firm deadline to submit a report and recommendation for any
17 such proposed interim distribution of assets to customers, it nevertheless views this
18 as a desirable goal if sufficient additional progress takes place with regard to the

1 administration of the Receivership.

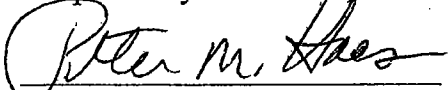
2 5. The Receiver and the Commission view the proposed goal of seeking
3 to determine whether it will be possible to submit to the Court a proposal for an
4 interim distribution of assets to customers as a laudable goal and a top priority for
5 the Receiver. Towards that end, both the Receiver and the Commission are of the
6 view that near-term litigation deadlines, including the deadline for FXLQ to
7 answer the complaint and for the parties to schedule a formal discovery conference
8 and submit a proposed scheduling order, could have the unfortunate consequence
9 of complicating the litigation posture of the case and delaying the Receiver's
10 efforts to address the issue of the claims of FXLQ's customers. Conversely,
11 because FXLQ remains subject to the NFA's MRA and is not conducting any
12 active business as a registered FCM, it does not appear that an enlargement or stay
13 of the time for FXLQ to answer the complaint or for the parties to conduct formal
14 discovery conferences (in large part because the Receiver has current authority to
15 conduct discovery necessary to advance the administration of the Receivership)
16 would prejudice any party or delay the resolution of this case.

17 6. The Receiver and the Commission are also endeavoring to explore the
18 possibilities of a negotiated settlement of existing or pending claims that could

1 narrow the scope of the issues to be resolved by the Court, or even possibly resolve
2 all existing and pending claims relating to the case.

3 Wherefore, the Commission, and the Receiver on behalf of FXLQ,
4 respectfully move the Court to enter an order enlarging the time for FXLQ to
5 answer or otherwise to respond to the Complaint up to and including May 30,
6 2008, and for a temporary stay of the conference requirements pursuant to Fed. R.
7 Civ. Proc. 26(f), and a temporary stay of the requirement for the issuance of a
8 scheduling order pursuant to Fed. R. Civ. Proc. 16(b). A proposed order is
9 attached.

10 Respectfully submitted,

11 

12 Peter M. Haas
13 Peter M. Haas (*pro hac vice*)

14 Richard P. Foelber (*pro hac vice*)

15 U.S. Commodity Futures Trading Commission

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6 Attorneys for Plaintiff
7 Commodity Futures Trading Commission

8
9 Date: 3/31/08

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11 
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 8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

10
 11 U.S. COMMODITY FUTURES
 TRADING COMMISSION,

CASE NO. SACV07-1437 CJC (RNBx)
CERTIFICATE OF SERVICE

12 Plaintiff,

13 v.

14 FOREX LIQUIDITY LLC,

15 Defendant.
 16

17
 18 I, the undersigned, declare and certify as follows:

19 I am over the age of eighteen years, not a party to the within action and
 20 employed in the County of Los Angeles, State of California. I am employed in the
 office of FRANDZEL ROBINS BLOOM & CSATO, L.C., members of the Bar of
 21 the above-entitled Court, and I made the service referred to below at their direction.
 My business address is 6500 Wilshire Boulevard, Seventeenth Floor, Los Angeles,
 California 90048-4920.

22 On March 31, 2008, I served true copy(ies) of the **UNOPPOSED MOTION**
 23 **BY PLAINTIFF COMMODITY FUTURES TRADING COMMISSION FOR**
 24 **AN ENLARGEMENT OF TIME FOR DEFENDANT TO ANSWER OR**
RESPOND, AND FOR A TEMPORARY STAY OR MODIFICATION OF
 25 **TIMETABLE FOR RULE 26(F) DISCOVERY CONFERENCE AND**
ISSUANCE OF RULE 16 SCHEDULING ORDER, to the party(ies) listed on the
 attached service list.

26 **BY MAIL:** I am "readily familiar" with the firm's practice of collection and
 27 processing correspondence for mailing with the United States Postal Service.
 Under that practice, it would be deposited with the United States Postal
 28 Service that same day in the ordinary course of business. Such document(s)

1 were placed in envelopes addressed to the person(s) served hereunder for
2 collection and mailing with postage thereon fully prepaid at Los Angeles,
California, on that same day following ordinary business practices.

3 **BY FACSIMILE:** At approximately _____, I caused said document(s) to be
4 transmitted by facsimile. The telephone number of the sending facsimile
5 machine was (323) 651-2577. The name(s) and facsimile machine telephone
6 number(s) of the person(s) served are set forth in the service list. The
document was transmitted by facsimile transmission, and the sending
facsimile machine properly issued a transmission report confirming that the
transmission was complete and without error.

7 **BY E-MAIL:** At approximately _____, I caused said document(s) to be
8 transmitted by electronic mail. The name(s) and e-mail addresses of the
9 person(s) served are set forth in the service list. The document was
transmitted by electronic transmission and without error.

10 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I caused said
11 document(s) to be served by means of this Court's electronic transmission of
the Notice of Electronic Filing through the Court's transmission facilities, to
12 the parties and/or counsel who are registered CM/ECF Users set forth in the
service list obtained from this Court.

13 **BY PERSONAL SERVICE:** I personally delivered such document(s) to the
14 person(s) served hereunder.

15 I certify under penalty of perjury under the laws of the State of California and
the United States of America that the foregoing is true and correct.

16 Executed on March 31, 2008, at Los Angeles, California.

17 /s/ E. Pang
18 E. PANG

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Via Electronic Notice

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