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7

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

10  
11 U.S. COMMODITY FUTURES  
TRADING COMMISSION,

12 Plaintiff,

13 v.

14 FOREX LIQUIDITY LLC,

15 Defendant.  
16

CASE NO. SACV07-1437 CJC (RNBx)

**NOTICE OF MOTION AND  
MOTION FOR ORDER  
ALLOWING THE CLAIM OF  
MUSHEGH TOVMASYAN;  
MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATIONS  
OF BRICK KANE AND MUSHEGH  
TOVMASYAN IN SUPPORT  
THEREOF**

[Honorable District Court Judge  
Cormac J. Carney]

DATE: June 1, 2009  
TIME: 1:30 p.m.  
PLACE: Courtroom 9B

1 TO: THE HONORABLE CORMAC J. CARNEY, UNITED STATES  
2 DISTRICT JUDGE, AND ALL PARTIES OF INTEREST:

3 PLEASE TAKE NOTICE that on June 1, 2009, commencing at 1:30 p.m., or  
4 as soon thereafter as the parties may be heard in Courtroom 9B of the above-entitled  
5 court located at 411 West Fourth Street, Santa Ana, California 92701, Robb Evans  
6 & Associates LLC (the "Receiver"), as Receiver for Forex Liquidity LLC  
7 ("FXLQ"), will and hereby does move the Court for an order allowing the claim of  
8 Mushegh Tovmasyan in the sum of \$265,100.00.

9 PLEASE TAKE FURTHER NOTICE that this Motion is made pursuant to  
10 Local Rules 66-6 and 66-7, and in accordance with the Court's Orders dated  
11 December 14, 2007, and January 25, 2008, appointing the Receiver, and is based  
12 upon this Notice of Motion and Motion, the accompanying memorandum of points  
13 and authorities and declarations of Brick Kane and Mushegh Tovmasyan, upon the  
14 pleadings, records and files of this case of which the Receiver requests the Court  
15 take judicial notice, the separate Notice of Hearing served concurrently herewith,  
16 and upon all other further pleadings, oral and documentary evidence and argument  
17 of counsel as may be presented by the Receiver at or before the time of the hearing  
18 on the Motion.

19 PLEASE TAKE FURTHER NOTICE that a copy of this Motion is posted on  
20 the Receiver's website at <http://www.robbevans.com/html/forexlq.html> where it may  
21 be reviewed in its entirety. Copies of this Motion will be provided to any interested  
22 party upon receipt of a written request which may be sent to: Robb Evans &

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1 Associates LLC, 11450 Sheldon Street, Sun Valley, CA 91352-1121; Telephone  
2 (818) 768-8100; Facsimile: (818) 768-8802.

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Dated: April 24, 2009

FRANDZEL ROBINS BLOOM & CSATO, L.C.

By: /s/ CRAIG A. WELIN  
CRAIG A. WELIN  
Attorneys for Receiver, ROBB  
EVANS & ASSOCIATES LLC

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I**

**INTRODUCTION**

This action was commenced by the U.S. Commodity Futures Trading Commission (the "CFTC") in December 2007 against Forex Liquidity LLC ("FXLQ"), which is alleged by the CFTC (1) to have failed to meet the minimum adjusted net capital requirements for a Futures Commission Merchant registered with the CFTC and a member of the National Futures Association, and (2) to have failed to adequately maintain records that currently reflect its assets, liabilities and capital. On December 14, 2007, Robb Evans & Associates LLC (the "Receiver") was originally appointed as the temporary receiver for FXLQ pursuant to this Court's ex parte statutory restraining order and order to show cause regarding preliminary injunction. The appointment of the Receiver was subsequently confirmed pursuant to this Court's consent order of preliminary injunction dated January 25, 2008, and subsequent orders issued by the Court (the "Receivership Orders"). The Receivership Orders provide that the Receiver is to take over possession and control of the assets of FXLQ, with the full power of an equity receiver.

The receiver is making this motion for the purpose of obtaining the Court's permission to allow the claim of Mushegh Tovmasyan ("Tovmasyan") in the sum of \$265,100.00.

**II**

**THE RECEIVER'S REQUESTS ALLOWANCE OF THE CLAIM OF MUSHEGH TOVMASYAN**

Although Tovmasyan did not file a timely claim, the Receiver requests that the Court allow the claim of Tovmasyan in the sum of \$265,100.00. The Receiver believes, based on the information provided to him, that Tovmasyan's failure to file a timely claim was the result of misrepresentations made to him by Robert Gray and

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1 FXLQ's attorney, Jeffrey Slott, as set forth in Tovmasyan's declaration submitted  
2 herewith.

3 In particular, on December 24 and 26, 2007, and January 9, 2008, Tovmasyan  
4 made payments totaling \$265,100.00 from the account of Forexify International,  
5 owned solely by Tovmasyan, on behalf of Forex Liquidity LLC ("FXLQ") as  
6 follows:

- 7 12-24-07: \$11,000.00 paid to Charlie Chan, an employee of FXLQ
- 8 12-24-07: \$2,000.00 paid to Siu W. Cheung, an employee of FXLQ
- 9 12-24-07: \$45,000.00 paid to Lisa Carpenter, an employee of FXLQ
- 10 12-24-07: \$12,000.00 paid to Sound Advice Communications, an FXLQ
- 11 vendor
- 12 12-24-07: \$90,000.00 paid to Gray School of Irish Dance, for payment on an
- 13 FXLQ American Express credit card
- 14 12-24-07: \$50,000.00 paid to Jeffrey Slott Client Trust Account, attorney for
- 15 FXLQ
- 16 12-26-07: \$6,100.00 paid to Frank N. Masino, Law Offices, FXLQ's in-
- 17 house NFA lawyer
- 18 01-09-08: \$49,000.00 paid to Juan Manual Barletta, lawyer for FXLQ
- 19 Total: \$265,100.00

20 (See Exhibit "1" to Tovmasyan's Declaration.)

21 Tovmasyan made these payments to FXLQ after returning from Europe and  
22 learning that the assets of FXLQ had been frozen. Tovmasyan was informed by  
23 Robert Gray that the FXLQ assets had been frozen in error because Frank Masino,  
24 in-house legal counsel for NFA matters, did not respond in time to an NFA request.  
25 Robert Gray informed Tovmasyan that this matter would be cleared up within a few  
26 weeks. In addition, Jeffrey Slott, counsel for FXLQ, telephoned Tovmasyan and  
27 explained to him that these payments were appropriate and legal. Jeffrey Slott  
28 further stated to Tovmasyan that these payments were very important to maintain

1 FXLQ's operations. Based upon the representations of Robert Gray and Jeffrey  
2 Slott, Tovmasyan made these payments in the sum of \$265,100.00 on behalf of  
3 FXLQ.

4 Tovmasyan did not learn of the falsity of these representations by Robert  
5 Gray and Jeffrey Slott until June, 2008, when he received a copy of the Receiver's  
6 report. Up until that date, Robert Gray had represented that there were sufficient  
7 assets of FXLQ and that Tovmasyan would be reimbursed as soon as this error was  
8 corrected. Therefore, Tovmasyan did not learn until after June, 2008, that he should  
9 have filed a claim against FXLQ for sums he had paid on FXLQ's behalf. The  
10 Receiver never notified Tovmasyan of any deadline for filing a claim because the  
11 Receiver did not know until late Fall 2008, when he was contacted by counsel for  
12 Tovmasyan, that Tovmasyan was a creditor of FXLQ.

13 Since Tovmasyan had no knowledge of any deadline for filing a claim  
14 against FXLQ due to the false representations made by Robert Gray and Jeffrey  
15 Slott, the Receiver requests that the claim of Tovmasyan and Forexify International,  
16 an entity owned solely by Tovmasyan, be approved by the Court.

17 **III**  
18 **CONCLUSION**

19 Based on the foregoing, the Receiver respectfully requests that this Court  
20 allow the claim of Tovmasyan in the sum of \$265,100.00 for the reasons stated  
21 herein.

22  
23 Dated: April 24, 2009 FRANDZEL ROBINS BLOOM & CSATO, L.C.

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25 By: /S/ CRAIG A. WELIN  
26 CRAIG A. WELIN  
27 Attorneys for Receiver, ROBB  
28 EVANS & ASSOCIATES LLC

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# DECLARATION



**DECLARATION OF BRICK KANE**

I, Brick Kane, declare as follows:

1. I am a deputy to the Receiver Robb Evans & Associates LLC (the "Receiver") and a principal of the firm. I have been one of the deputies to the Receiver with primary responsibility for the day-to-day supervision and management of the receivership estate over the assets of Forex Liquidity LLC ("FXLQ") since the Receiver was first appointed as receiver on December 14, 2007. I have personal knowledge of the matters set forth in this declaration and, if I were called upon to testify as to those matters, I could and would competently testify thereto based upon my personal knowledge.

2. The Receiver was first appointed as temporary receiver in this matter by this Court's order dated December 14, 2007. The Receiver is currently acting as receiver pursuant to this Court's Consent Order of Preliminary Injunction entered January 25, 2008 (the "Receivership Order").

3. I request that the Court allow the claim of Mushegh Tovmasyan ("Tovmasyan") in the sum of \$265,100.00. Although Tovmasyan did not file a timely claim, I believe, based on the information provided to me, that his failure to do so was the result of misrepresentations made to him by Robert Gray and FXLQ's attorney, Jeffrey Slott.

4. As stated in Tovmasyan's Declaration submitted herewith, on December 24 and 26, 2007, and January 9, 2008, Tovmasyan made payments from the account of Forexify International on behalf of Forex Liquidity LLC ("FXLQ") in the sum of \$265,100.00, at the request of Robert Gray and his attorney to pay for various business debts of FXLQ. (See the spreadsheet attached as Exhibit "1" to Tovmasyan's Declaration.)

5. Based upon my review of Tovmasyan's Declaration, various misrepresentations were made to Tovmasyan by Robert Gray and Jeffrey Slott, counsel for FXLQ, and as a result Tovmasyan made payments in the sum of

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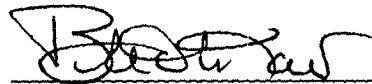
1 Tovmasyan's Declaration.)

2 5. Based upon various misrepresentations made to Tovmasyan by Robert  
3 Gray and Jeffrey Slott, counsel for FXLQ, Tovmasyan made these payments in the  
4 sum of \$265,100.00 to FXLQ and did not learn of the falsity of these representations  
5 by Robert Gray and Jeffrey Slott until June, 2008. Up until that date, Robert Gray  
6 had represented that there were sufficient assets of FXLQ and that Tovmasyan  
7 would be reimbursed as soon as this error was corrected. Therefore, Tovmasyan did  
8 not learn until after June, 2008, that he should have filed a claim against FXLQ.

9 6. The Receiver never notified Tovmasyan of any deadline for filing a  
10 claim because the Receiver did not know until late Fall 2008, when he was  
11 contacted by counsel for Tovmasyan, that Tovmasyan was a creditor of FXLQ.

12 7. Since Tovmasyan had no knowledge of a deadline for filing a claim  
13 against FXLQ due to the false representations made to him by Robert Gray and  
14 Jeffrey Slott, the Receiver requests that the claim of Tovmasyan and Forexify  
15 International be allowed by the Court.

16 I declare under penalty of perjury under the laws of the State of California  
17 that the foregoing is true and correct and that this declaration was executed on April  
18 24, 2009, at Sun Valley, California.

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21 BRICK KANE  
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**DECLARATION OF MUSHEGH TOVMASYAN**

I, Mushegh Tovmasyan, declare:

1. I am the sole owner of Forexify International. I have personal knowledge of the matters specified in this declaration, and I could and would competently testify thereto if called upon to do so.

2. On December 24 and 26, 2007, and January 9, 2008, I made payments from the account of Forexify International on behalf of Forex Liquidity LLC ("FXLQ") in the sum of \$265,100.00 at the request of Robert Gray and his attorney to pay for various business debts of FXLQ. These payments are as follows:

- 12-24-07: \$11,000.00 paid to Charlie Chan, an employee of FXLQ
  - 12-24-07: \$2,000.00 paid to Siu W. Cheung, an employee of FXLQ
  - 12-24-07: \$45,000.00 paid to Lisa Carpenter, an employee of FXLQ
  - 12-24-07: \$12,000.00 paid to Sound Advice Communications, an FXLQ vendor
  - 12-24-07: \$90,000.00 paid to Gray School of Irish Dance, for payment on an FXLQ American Express credit card
  - 12-24-07: \$50,000.00 paid to Jeffrey Slott Client Trust Account, attorney for FXLQ
  - 12-26-07: \$6,100.00 paid to Frank N. Masino, Law Offices, FXLQ's in-house NFA lawyer
  - 01-09-08: \$49,000.00 paid to Juan Manual Barletta, lawyer for FXLQ
- Total: \$265,100.00.

A true and correct copy of the spreadsheet that I prepared on behalf of Forexify International setting forth these payments on behalf of FXLQ is attached hereto as Exhibit "1."

3. I made these payments to FXLQ after returning from Europe and learning that the assets of FXLQ had been frozen. I was informed by Robert Gray that the FXLQ assets had been frozen in error because Frank Masino, in-house legal

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counsel for NFA matters, did not respond in time to an NFA request. Robert Gray informed me that this matter would be cleared up within a few weeks. In addition, Jeffrey Slott, counsel for FXLQ, telephoned me and explained that these payments were appropriate and legal. Jeffrey Slott further stated that these payments were very important to maintain FXLQ's operations. Based upon the representations of Robert Gray and Jeffrey Slott, I made these payments in the sum of \$265,100.00 on behalf of FXLQ.

4. I did not learn of the falsity of these representations by Robert Gray and Jeffrey Slott until June, 2008, when I received the Receiver's Report. Up until that date, Robert Gray had represented that there were sufficient assets of FXLQ and that I would be reimbursed as soon as this error was corrected. Therefore, I did not learn until after June, 2008, that I should have filed a claim against FXLQ. In addition, I never received a notice from the Receiver of any deadline for filing a claim. Since I had no knowledge of any deadline for filing a claim against FXLQ, because of the false representations made to me by Robert Gray and Jeffrey Slott, I request that my claim be allowed by the Court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 24, 2009, at San Diego, California.

  
MUSHEGH TOVMASYAN

# **EXHIBIT 1**

Source Account	Local Currency	Amount	Date	Beneficiary Name	Role
201757192	USD	\$49,000.00	1/9/2008	JUAN MANUEL BARLETTA	Lawyer for FXLQ
201757192	USD	\$6,100.00	12/26/2007	FRANK N. MASINO, LAW OFFICES	FXLQ inhouse NFA lawyer
201757192	USD	\$50,000.00	12/24/2007	JEFF SLOTT CLIENT TRUST ACCOUNT	Lawyer for FXLQ
201757192	USD	\$90,000.00	12/24/2007	GRAY SCHOOL OF IRISH DANCE, LLC	FXLQ AMEX Credit Card
201757192	USD	\$12,000.00	12/24/2007	SOUND ADVICE COMMUNICATIONS	FXLQ Vendor. Audio & Video for Commercials
201757192	USD	\$45,000.00	12/24/2007	LISA CARPENTIER	Employee of FXLQ (Human Resources Director)
201757192	USD	\$2,000.00	12/24/2007	SIU W. CHEUNG	Employee of FXLQ (Back Office, Accounting)
201757192	USD	\$11,000.00	12/24/2007	CHARLIE CHAN	Employee of FXLQ (Compliance Director)
		<b>\$265,100.00</b>			

**EXHIBIT** 1