

1 **Eric L. Troff, Esq., CSB #110031**
2 **BAER & TROFF, LLP**
3 **225 S. Lake Avenue, Ste. 600**
4 **Pasadena, CA 91101**
5 **(626) 793-1094**
6 **(626) 405-0786 facsimile**

7 **Attorneys for IKON Global Markets, Inc.**

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

11
12 **U.S. COMMODITY FUTURES**
13 **TRADING COMMISSION,**

14 **Plaintiff,**

15 **vs.**

16 **FOREX LIQUIDITY, LLC**

17 **Defendant.**

18 **Case No.: SACV 07-1437 CJC**

19 **REPLY OF IKON GLOBAL**
20 **MARKETS, INC. TO OBJECTIONS**
21 **OF ROBERT GRAY; AND**

22 **DECLARATION OF PAVEL B.**
23 **BELOGOUR**

24 **[Honorable District Court Judge**
25 **Cormac J. Carney]**

26 **Date: July 14, 2008**

27 **Time: 1:30 p.m.**

28 **Dept. 9-B**

23 IKON Global Markets, Inc. ("IKON") entered into an agreement dated June 18,
24 2008 (the "Agreement") with the Receiver, and with the consent of Forex Asia
25 International Corporation ("FXA"), to purchase the Asian accounts held by Forex
26 Liquidity, LLC ("Forex Liquidity"). Relying on a number of mischaracterizations and
27

28 *REPLY OF IKON GLOBAL MARKETS, INC. TO OBJECTIONS OF ROBERT GRAY*

1 erroneous statements, Robert Gray objected to the Court's approval of this transaction
2 between IKON and the Receiver.

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4 IKON reiterates Global Futures & Forex, Ltd.'s position that Gray's
5 proposal to pay out the customer funds now and sell the accounts at a later date makes
6 little economic sense. If, as Gray suggests, the customer accounts are paid out now, there
7 will be little remaining for the Receiver to sell. Instead the Receiver will be left with
8 only a list of leads of people who could potentially be solicited to open accounts.
9 Although such leads might have some value, their value cannot exceed the value of the
10 funded Asian accounts, which are to be transferred pursuant to the Receiver's Agreement
11 with IKON. Moreover, the Asian customers' identities and contact information are
12 proprietary to FXA and could not be transferred without FXA's consent.
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16 Mr. Gray never allows the facts to get in the way of a good story. First, Mr.
17 Gray asserts that the purchase price of the Asian customer accounts is grossly under
18 market because IKON is receiving accounts with a trading value of more than \$4,000,000
19 in exchange for a purchase price of only \$200,000. This assertion greatly
20 mischaracterizes the value of the accounts. Analogous to a bank, a futures commission
21 merchant only earns a percentage of revenue in fees for funds held in customer accounts.
22 Contrary to Mr. Gray's implication, the money held in the customer accounts does not
23 translate dollar for dollar into the value of the accounts. Furthermore, the funds in the
24 accounts belong to the customers who could choose to withdraw them post-transfer
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1 immediately upon request to IKON. Thus, IKON is not receiving accounts worth more
2 than \$4,000,000 for a purchase price of only \$200,000.

3
4 Second, Mr. Gray erroneously states that the Receiver agreed to repay the
5 \$600,000 loan from IKON to FXA. In actuality, the Receiver agreed to do no such thing.
6 Instead, FXA simply assigned its right to the \$600,000 settlement it negotiated with the
7 Receiver to IKON as security for money IKON previously lent FXA.
8

9 Third, Mr. Gray proposes to immediately distribute the funds in the
10 customer accounts though IFX Markets Inc. However, as established in the Affidavit of
11 Paul Belogour, attached hereto as Exhibit A, no agreement between Mr. Gray and IFX
12 Markets Inc. to distribute the funds exists.
13

14 Fourth, Mr. Gray misrepresents IKON's use of an alias, "FXIM" when he
15 alleges that IKON was operating, in part, as FXIM for months. Though IKON registered
16 the FXIM name with the NFA in February, it did not actually begin using the name until
17 after it obtained the requisite legal authority to do so from the State of New York in May.
18 IKON's Assumed Name Certificate is attached hereto as Exhibit B.
19
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21 Fifth, Mr. Gray ignores the fact that FXA's exclusivity and proprietary
22 rights with regard to the Asian customers preclude any transfer of these accounts or
23 customer data without FXA's consent, which the Receiver obtained for the sale to IKON.
24

25 Finally, it is noted that Mr. Gray lacks standing to object to the Receiver's
26 distribution plan. As a general matter, the Receiver has authority to act on behalf of a
27 defendant and control its corporate affairs. *See SEC v. Spence & Green Chemical Co.*,
28

1 612 F.2d 896, 903 (5th Cir. 1980) (“As a general rule a receiver, standing in the shoes of
2 management, holds the sole right absent some sort of shareholder derivative action to
3 direct the litigation of the corporation with whose care he is entrusted.”) Similarly, in
4 *Selheimer v. Maganese Corp. of America*, 416 Pa. 274 (1965), the court appointed a
5 receiver to act on behalf of a corporation, and counsel for some individual defendants
6 and for the corporation moved the court purportedly on behalf of the corporation for a
7 specific action. The court held that the counsel did not have authority to act on behalf of
8 the corporation because a receiver had been appointed. Through his motions, Mr. Gray is
9 clearly attempting to usurp the Receiver’s authority. *See Commodity Futures Trading*
10 *Com. v. FITC, Inc.*, 1985 U.S. Dist. Lexis 21801, *7 (N.D. Cal. 1985) (“Once a court
11 appoints a receiver, the management loses the power to run the corporate affairs. The
12 receiver obtains all the corporation’s power and assets.”).

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17 Based upon the specific terms of this Court’s Order appointing the Receiver
18 and general principles of receivership law, Mr. Gray’s Motion to Intervene and his
19 Objections and Motion to Stay and Abate Receiver’s Distribution Plan should be
20 disregarded as Mr. Gray has no standing to file these motions.
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22 For the foregoing reasons, the Court should overrule Gray’s objections to
23 the sale of accounts from the Receiver to IKON and approve the sale.
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DATED: 7/9, 2008

BAER & TROFF LLP

By: 

ERIC L. TROFF,
Attorneys for IKON Global Markets

EXHIBIT A



AFFIDAVIT OF PAVEL B. BELOGOUR

I, PAVEL B. BELOGOUR, being first duly sworn under oath, do depose and state as follows:

1. I am over eighteen years of age and have personal knowledge of the matters discussed herein.
2. I am President of IFX Markets, Inc., a Commodity Futures Trading Commission registered futures commission merchant whose principal address is located at One America Square, 17 Crosswall, London, UK EC3N 2LB
3. On July 3, 2008 I had a telephone conversation with Robert Gray of Forex Liquidity, LLC. The conversation was very brief. Mr. Gray initiated the call and asked me if IFX Markets Inc. was interested in the assets of Forex Liquidity, LLC. I informed Mr. Gray that IFX Markets, Inc. would be interested in such a transaction and would request more detailed information if it decided to proceed. I spoke with Robert Gray via telephone again on July 7, 2008 to discuss additional information. On July 9, 2008 I formally informed Robert Gray via email that IFX Markets, Inc. was not interested in purchasing the assets of Forex Liquidity, LLC.
4. Neither Mr. Gray and I nor IFX Markets Inc. and Forex Liquidity, LLC contracted for, agreed to, or had a meeting of the minds regarding any assets during neither the July 3, 2008 nor the July 7, 2008 phone conversations or at any other point during any other correspondence, whether verbal or written.

Pavel Belogour
President, IFX Markets Inc.

Commonwealth of Massachusetts

On this Tenth day of July, 2008, before me, the undersigned notary public, personally appeared the above named Pavel Belogour, proved to me through satisfactory evidence of identification, which was a U.S. Passport, to be the person whose name is signed on this document, and who swore or affirmed to me that the contents of this document are truthful and accurate to the best of his knowledge and belief.

[Signature] (signature and seal of notary)

My Commission Expires: Nov. 15, 2015

EXHIBIT B

N. Y. S. DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

ALBANY, NY 12231-0001

FILING RECEIPT

=====

ENTITY NAME : IKON GLOBAL MARKETS INC.

DOCUMENT TYPE : ASSUMED NAME CERTIFICATE

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FILER:

FILED: 05/27/2008

CASH#: 198926

FILM#: 20080527011

DIWAKAR JAGANNATH
99 WALL STREET, 11TH FLR

NEW YORK NY 10005

PRINCIPAL LOCATION

99 WALL STREET, 11TH FLR

NEW YORK
NY 10005

COMMENT:

ASSUMED NAME

FXIM

=====

SERVICE COMPANY : +++ NO SERVICE COMPANY +++

CODE:
BOX :

FEEs 125.00

PAYMENTS: 125.00

FILING : 25.00

CASH :

COUNTY : 100.00

CHECK :

COPIES : .00

C CARD : 125.00

MISC : .00

HANDLE : .00

REFUND :

N. Y. S. DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

ALBANY, NY 12231-0001

FILING RECEIPT

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ENTITY NAME : IKON GLOBAL MARKETS INC.

DOCUMENT TYPE : ASSUMED NAME CERTIFICATE

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FILER:

FILED: 05/27/2008
CASH#: 198924
FILM#: 20080527009

DIWAKAR JAGANNATH
99 WALL STREET, 11TH FLR

NEW YORK NY 10005

PRINCIPAL LOCATION

99 WALL STREET, 11TH FLR

NEW YORK
NY 10005

COMMENT:

ASSUMED NAME

FOREX INTERNATIONAL MARKETS

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SERVICE COMPANY : +++ NO SERVICE COMPANY +++

CODE:
BOX :

FEES 125.00

FILING : 25.00
COUNTY : 100.00
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MISC : .00
HANDLE : .00

PAYMENTS: 125.00

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1 **PROOF OF SERVICE**
2 **U.S. Commodity Futures Trading Commission v. Forex Liquidity, LLC**
3 **Case No. SACV 07-1437 CJC**

4 I, Lily Gonzalez, declare:

5 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not
6 a party to the within action; my business address is: 225 South Lake Avenue, Suite 600,
7 Pasadena, California, 91101.

8 On July 10, 2008, I served the foregoing document described as **REPLY OF IKON
9 GLOBAL MARKETS, INC. TO OBJECTIONS OF ROBERT GRAY; AND DECLARATION OF
10 PAVEL B. BELAGOUR** on the interested parties in this action by causing true copies thereof to
11 be delivered to :

12 **SEE ATTACHED SERVICE LIST**

13 **BY MAIL** - I am "readily familiar" with this firm's practice of collection and processing
14 correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal
15 Service on that same day with postage thereon fully prepaid at Pasadena, California in the
16 ordinary course of business. I am aware that on motion of the party served, service is presumed
17 invalid if postal cancellation date or postage meter date is more than one (1) day after the date
18 of deposit for mailing in affidavit.

19 **BY OVERNIGHT MAIL** - I caused such envelope(s) to be delivered by hand to
20 Overnight Express providing for overnight delivery to the addressee(s).

21 **BY FACSIMILE TRANSMISSION** - I caused such document(s) to be faxed to the
22 addressee(s) at the facsimile number set forth beneath their above-listed address. At the
23 completion of the transmission, a Transmission Report was generated confirming transmission
24 and receipt by the addressee(s).

25 **BY ELECTRONIC MAIL** -

26 Executed on July 10, 2008, at Pasadena, California.

27 **STATE** - I declare under penalty of perjury under the laws of the State of California,
28 that the foregoing is true and correct.

FEDERAL - I declare that I am employed in the office of a member of the Bar for
this Court at whose direction this service was made. I declare under penalty of perjury under the
laws of the United States that the foregoing is true and correct.

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Lily Gonzalez

1
2 **U.S. Commodity Futures Trading Commission v. Forex Liquidity, LLC**
3 **Case No. SACV 07-1437 CJC**
4 **SERVICE LIST**

5 Kent A. Kawakami Attorney for Plaintiff
6 AUSA- Office of US Attorney
7 Civil Division
8 300 N. Los Angeles Street
9 Suite 7516
10 Los Angeles, CA 90012
11 213-894-4858
12 Email: kent.kawakami@usdoj.gov

13 Peter M. Haas Attorney for Plaintiff
14 US Commodity Futures Trading
15 Commission
16 1155 21st Street N.W.
17 Washington, DC 20581
18 202-418-5320
19 Email: plass@cftc.gov

20 Richard P. Foelber Attorney for Plaintiff
21 US Commodity Futures Trading
22 Commission
23 1155 21st Street N.W.
24 Washington, DC 20581

25 Craig A Welin Attorney for Receiver
26 Frandzel Robins Bloom & Csato
27 6500 Wilshire Blvd, 17th Fl
28 Los Angeles, CA 90048-0932
3232-852-1000
Email: cwelin@frandzel.com

Thomas S. Arthur Attorney for Receiver
Frandzel Robins Bloom & Csato
6500 Wilshire Blvd, 17th Fl
Los Angeles, CA 90048-0932
Email: tarthur@frandzel.com

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Brett Alan Green field
Kenner Law Firm APC
15303 Ventura Blvd, 9th Floor
Sherman Oaks, CA 91364

Attorneys for Intervenor

David E. Kenner
David E. Kenner Law Offices
15303 Ventura Blvd, 9th Floor
Sherman Oaks, CA 91364
Email: david@kennerlaw.com