

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

E-FILED ON  
12-30-08  
DKT. # 0236624  
SG. DKT. CALENDAR —

**COPY**

UNITED STATES COMMODITY FUTURES )  
TRADING COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
LAKE SHORE ASSET MANAGEMENT )  
LIMITED, *et al.*, )  
 )  
Defendants. )

No. 07 C 3598  
Hon. Blanche M. Manning  
Magistrate Judge Michael T. Mason

**NOTICE OF MOTION**

**TO:** SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on Thursday, January 15, 2009 at 11:00 a.m., or as soon thereafter as counsel may be heard, we shall appear before the Honorable Judge Blanche M. Manning, Courtroom 2125, 219 South Dearborn Street, Chicago, Illinois, and then and there present the attached **MOTION OF RECEIVER FOR ORDER AUTHORIZING A CLAIMS VERIFICATION PROCEDURE** at which time and place you may appear if you see fit.

DATED: December 30, 2008

Respectfully Submitted,

**ROBB EVANS & ASSOCIATES LLC,  
TEMPORARY EQUITY RECEIVER FOR THE  
LAKE SHORE COMMON ENTERPRISE**

By:                   /s/Ira Bodenstein                    
One of Its Attorneys

Ira Bodenstein (#3126857)  
S. Jarret Raab (#6294632)  
SHAW GUSSIS FISHMAN GLANTZ WOLFSON & TOWBIN, LLC  
321 N. Clark Street, Suite 800  
Chicago, IL 60654  
PH: (312) 541-0151  
FX: (312) 980-3888

**CERTIFICATE OF SERVICE**

Ira Bodenstein certifies that he caused to be served a true copy of the above and foregoing notice and attached pleadings upon the attached Service List via U.S. Mail, First Class, Postage Prepaid and electronic ECF delivery, unless otherwise indicated on this 30th day of December, 2008.

By:                   /s/ Ira Bodenstein

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

UNITED STATES COMMODITY FUTURES	)	
TRADING COMMISSION,	)	
	)	No. 07 C 3598
Plaintiff,	)	
	)	HON. BLANCHE M. MANNING
v.	)	
LAKE SHORE ASSET MANAGEMENT	)	MAG. JUDGE MICHAEL T. MASON
LIMITED, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MOTION OF RECEIVER FOR ORDER AUTHORIZING  
A CLAIMS VERIFICATION PROCEDURE**

Robb Evans & Associates LLC, the Court appointed temporary equity Receiver (the “Receiver”) for the Lake Shore Common Enterprise (“LS Common Enterprise”), moves for the entry of an order authorizing the Receiver to institute a claims verification procedure on the terms and conditions set forth below. In support of this motion, the Receiver respectfully represents as follows:

**INTRODUCTION**

1. This action was commenced by the Commodity Futures Trading Commission (“CFTC”) against the receivership defendants, who are alleged to have committed fraud against investors by making material misrepresentations and omissions regarding certain commodity pools operated by the defendants, specifically, by presenting false financial statements to investors and providing false performance tables to investors that misrepresented the pools’ respective and collective track records. The CFTC also alleged that the receivership defendants had violated certain record keeping provisions of the Act.

2. The Original CFTC Complaint was filed June 26, 2007; the First Amended Complaint was filed on August 8, 2007. A Second Amended Complaint was filed February 19, 2008, naming all of the entities that comprise the LS Common Enterprise as defendants.

3. On October 4, 2007, Robb Evans & Associates LLC was appointed as temporary equity Receiver. This appointment followed the entry of an Order of Preliminary Injunction on August 28, 2007.

4. On April 24, 2008, the Court entered a Memorandum and Order which granted a default judgment and entered a permanent injunction against the LS Common Enterprise.<sup>1</sup> On April 24, 2008, the Court also entered an Amended Order Appointing Receiver (the "Receivership Order").

5. The Receivership Order appointed the Receiver as receiver for the LS Common Enterprise, which was defined to include the following entities: "Lake Shore Asset Management Limited ("LSAM"). Lake Shore Group, Lake Shore Asset Management Inc., Lake Shore Alternative Financial Asset Account Limited, a/k/a Lake Shore Alternative Financial Asset Ltd., Lake Shore Alternative Financial Asset Account I Limited, Lake Shore Alternative Financial Asset Account II Limited, Lake Shore Alternative Financial Asset Account III Limited, Lake Shore Alternative Financial Asset Fund Limited, Lake Shore Alternative Financial Asset Fund II Limited, Lake Shore Alternative Financial Asset Fund III Limited, Geneva Corporation Funds World Limited and/or Genevacorp Funds World Ltd. (formerly known as Lake Shore Alternative Financial Asset Fund IV Limited), Lake Shore Alternative Financial Asset Fund IV US, LLC, Lake Shore Alternative Financial Asset Yen Fund I, Lake Shore Alternative Financial Asset Yen Fund Limited Class II, Lake Shore Alternative Financial Asset Yen Fund Limited Class III, Hanford Investments Ltd., all funds, properties, premises, accounts and other assets directly or indirectly owned,

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<sup>1</sup> On September 17, 2008, the Court entered a Memorandum and Order which granted a default judgment and entered a permanent injunction against Philip J. Baker.

beneficially or otherwise, by the LS Common Enterprise, individually or collectively, including, but not limited to, funds on deposit at Sentinel Management Group, Inc.....” See Receivership Order at 2-3.

6. Pursuant to the Receivership Order, the Receiver is directed to among other things, take custody and control of all of the funds, property, accounts and other assets of LSAM in the possession of, or under the control of the LS Common Enterprise, and to marshal, preserve, account for liquidate all assets of the LS Common Enterprise for purposes of making a distribution to the clients of the LS Common Enterprise.

7. Since the appointment, the Receiver has investigated and is attempting to take possession and control of assets of the receivership estate in excess of \$242 million. To that end, the Receiver has filed Proofs of Claim in the pending chapter 11 bankruptcy of Sentinel Asset Management Group, Inc. (“Sentinel”) in the approximate amount of \$165 million and is a party to the interpleader proceedings pending in the High Court of Justice of London, England to resolve the competing claims to the approximately \$76 million paid into the court by MF Global UK Limited, Lehman Brothers International (Europe) and Newedge Group SA (formerly Fimat International Banque SA). Funds in the approximate amount of \$690,000.00 which were held for the benefit of Hanford Investments Ltd. (“Hanford”) have also been paid into Court and are subject to the pending Interpleader Proceeding. The offshore defendant companies who were listed as the named account holders have made competing claims to the funds. The hearing is set to commence April 27, 2009.

8. In direct contravention of numerous Orders of this Court, defendant Philip J. Baker and LSAM have refuse to repatriate funds held by the three London FCM’s. Moreover, the Lake Shore entities in whose names the funds where held have filed numerous pleadings in London opposing the Receiver’s claim. The London defendants have also refused to turnover the customer files and other Lake Shore documents transferred to Switzerland.

**THE RECEIVER SEEKS APPROVAL OF A CLAIMS VERIFICATION,  
FILING, AND ALLOWANCE PROCEDURE**

Claims Verification:

9. The Receiver has not received any customer files from LSAM. As documented in previous filings with this Court, the customer files were shipped from Canada to Bermuda and from Bermuda to Switzerland, where they remain under the control of Alexandre Schwab, a Swiss attorney representing Geneva Corporation Funds World Limited. The Receiver has attempted to reconstruct the investor database by requesting proof of investment from many of the Lake Shore clients. A notice was posted on the Receiver's website, and many investors have contacted the Receiver as a result. A copy of this notice is attached as Exhibit 1.

10. The Receiver has contacted, or will contact, all persons or entities that have submitted claim information to the Receiver, and the Receiver will also post an additional Notice to Investors on its website. In addition to reviewing information supplied by investors or their representatives, the Receiver has also reviewed Bank of New York records and Sentinel account records to identify customer deposits and any investor repayments

11. By this Motion the Receiver seeks approval of a procedure for verifying and identifying all Lake Shore customers and the amounts they are due (the "Claims Verification Procedure"). The Receiver believes that the investment scheme operated by the LS Common Enterprise overstated the value of the individual clients' investment portfolios as well as the overall performance for each fund. As set out in the Receiver's First Report filed with this Court on December 5, 2007, except for Fund 4, the investments in fact generated only losses. From January 28, 2002 to August 31, 2007, Lake Shore's trading losses were approximately \$37.5 million. Revised accounting figures now show the losses totaled more than \$38 million.

12. The Receiver has further determined that of this loss amount, 61%, or \$23.18 million excluding the \$690,000 held by the High Court of Justice in London, England for the benefit of

Hanford, represents monies paid to Hanford and Anglo International Associates Ltd. ("Anglo"), a payroll and accounting service in London used by LSAM to pay sales commissions and operating expenses. Monies were paid to Hanford and Anglo by the London FCM's on a monthly basis as commissions and introducing broker's fees. In the London proceedings, the Receiver is also making a claim to the \$690,000 being held for the benefit of Hanford.

Specific Fund Performance and Co-Mingling of Funds:

13. As set forth in the Receiver's First Report, LSAM operated four funds. Fund 1 received approximately \$144.8 million from investors and paid \$25.8 million to investors which nets to \$119 million. Of the \$144.8 million in gross receipts, approximately \$32.5 million, or 22.4%, was lost on trading futures contracts and \$4.8, or 3.3% was paid to Hanford. As part of trading in London, Fund 1 also received \$5,014,800 from and paid \$7 million to Fund 2, which nets to \$1,985,200, received \$5.5 million from Fund 3, and received approximately \$7.9 million from a U.S. Treasury bill from Fund 4.

14. There was significant commingling between Fund 1 and other Funds. For example, trading account 2 of Fund 1 transferred approximately \$2.7 million to the trading account of Fund 2, \$26.9 million to the trading account of Fund 3, and \$2 million to a Man Financial account of Fund 2. In total, Fund 1 transferred approximately \$13.7 million to Fund 2 and \$43.08 million to Fund 3, and received approximately \$4.5 million from Fund 4, which nets to approximately \$53 million.

15. Fund 2 received approximately \$38.3 million from investors and paid \$4.3 million to investors, which nets to \$34 million. Of the \$38.3 million in gross receipts approximately \$2.2 million, or 3.1%, was paid to Hanford. There was significant commingling between Fund 2 and other Funds. For example, operating account No. 2 of Fund 2 received \$3.0 million and

approximately \$2.9 million from the operating account and trading account No. 2 of Fund 1, respectively, and paid approximately \$3.7 million to the trading account of Fund 4.

16. Fund 3 received approximately \$67.2 million from investors and paid \$7.3 million to investors, which nets to \$59.9 million. Of the \$67.2 million in gross receipts, approximately \$3.7 million, or 5.5%, was lost on trading futures contracts and \$3.6 million, or 5.4%, was paid to Hanford. In summary, Fund 3 had net receipts of approximately \$59.9 million from investors, of which only about \$27 million was related to trading in London. Fund 3 was commingled by net receipts of approximately \$43.8 million from Fund 1. Fund 3 paid approximately \$7.4 million to Fund 4.

17. Fund 4 had net receipts of approximately \$60.6 million from investors, of which only about \$18 million was related to trading in London and a gain on futures contracts of approximately \$880,000. Fund 4 net paid approximately \$4.5 million to Fund 1, received approximately \$3.7 million from Fund 2, and received approximately \$7.4 million from Fund 3.

18. Fund 4 received approximately \$62.4 million from investors and paid \$1.8 million to investors, which nets to \$60.6 million. Fund 4 paid approximately \$628,000 to Hanford. There was significant commingling between Fund 4 and other Funds. For example, the trading account of Fund 4 initially transferred as collateral, a \$7,871,348 U.S. Treasury bill to a 4th Man Financial Account of Fund 1, Account No. ZP495. Account No. ZP495 received no other funds and used only the proceeds from the matured Treasury bill for trading. The trading account of Fund 4 received approximately \$3.7 million from operating account No. 2 of Fund 2, the operating account of Fund 4 received approximately \$5.8 million from the trading account of Fund 3, and the trading account of Fund 4 received approximately \$1.4 million from the trading account of Fund 3.

Proposed Treatment of Investor Claims:

19. Because the funds did not earn a profit, the Receiver proposes the following treatment of the Lake Shore pool participants' accounts and claims:

i. Investor account balances will be credited for funds actually deposited or paid by the investor to the receivership defendants;

ii. Any credits characterized as gain and applied by the receivership defendants to increase investors account balances will be reversed;

iii. Any actual payment of interest and actual payments for any other purposes, such as withdrawals of investment amounts and commissions, will be treated as a return of capital and the investor account balances will be reduced accordingly;

iv. No interest will be paid; and

v. For those investors who are institutional investors, brokers, or authorized representatives who are submitting claims on behalf of numerous clients, each client must be identified in confidential communications to the Receiver. The Receiver will keep the client identities confidential, unless there is a Court-Ordered disclosure. If any third party seeks such an Order, the Receiver will notify any person who would be affected so that they will have an opportunity to oppose the disclosure.

20. The Receiver proposes that the client identification information include the following: name, address (including email address, if available), telephone number and for institutional investors, authorized brokers, or authorized representatives and the beneficial owner details provided to them by their customer at the time the account was opened. The Receiver has prepared a proposed **Notice of Claim Verification** ("Notice"), and is seeking this Court's approval of this Notice. (There are two versions of the Notice, one for the direct investors, institutional investors, brokers, or authorized representative investors who have contacted the Receiver to date



and one for all the customers who have not already contacted the Receiver in response to Exhibit 1.)

The proposed forms of the two versions of the Notice are attached as Exhibit 2.

21. If the Court approves the calculation procedure set out above, the Receiver will notify each Lake Shore customer for whom the Receiver has received contact details of the Receiver's calculation of the investor's account balance and the amount the Receiver calculates as the proposed claim amount, based on the treatment of the deposits and payments and adjustments as set forth above. The proposed claim amount will be stated in U.S. dollars. To date, approximately 60% of the estimated claims have been submitted to the Receiver. As noted, the Receiver posted on November 1, 2007 a Notice to Investors at the time of appointment seeking proof of investments from the Lake Shore customers. The National Futures Association (NFA) provided a list of Lake Shore investor accounts to the Receiver upon the appointment of the Receiver. The list consists of information of fund, account number, registered name, mailing address, administrator name, and dealership for approximately 1,620 accounts.<sup>2</sup> For the investors on NFA's list who have not contacted the Receiver, the Receiver plans to federal express the Notice in the form attached as Exhibit 2, to the extent the address is available. The Notice will also be posted on the Receiver's website.

22. The Receiver proposes that each investor be provided 45 days from the date of service of notice of the calculation of the claim amount to object to the proposed claim amount or provide the required documents to support their claim amount (the "Claims Bar Date"). The Receiver will attempt to serve all persons for whom it has contact information by federal express or email. As indicated above, all investors will also be notified with Notice of the Claim Verification Procedures and the Claims Bar Date by posting on the Receiver's website. Any objections, claims, and proof of payments must be in writing and submitted to the Receiver within the 45-day notice

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<sup>2</sup> The number of accounts is greater than the number of investors because some investors had multiple accounts.

period. If the investor fails to timely object to the notice and the Receiver's calculation of the investor claim amount, then the amount set forth in the notice shall be the "Approved Investor Claim" upon which future distributions in the case will be made.

23. If the investor is submitting claim details not currently in the possession of the Receiver, the required documents set out above must be provided in writing prior to the Claims Bar Date. For the investors submitting new details, if the Receiver's calculation is different from the claim amount filed by the investor, the Receiver will notify the investor and provide an additional 45-day period to respond. If the Receiver receives a timely objection to any proposed claim amount, the Receiver will attempt to resolve the claim dispute through negotiation. If the parties are unable to resolve the dispute through negotiation, the Receiver will file a motion with this Court to seek resolution of the disputed claim.

24. The Receiver proposes that creditors holding claims against the receivership be provided with a similar written notice of the amount the Receiver calculates is owed to the creditor based on the records of the receivership. The Receiver is aware of one creditor at this time with a claim of approximately \$41,000. The Receiver proposes that creditors shall have 45 days from the date of service of the notice to object to the proposed allowed amount of the creditor's claim and that if no timely written objection is received by the Receiver within that 45-day period, then the amount stated in the notice will become the "Creditor's Approved Claim." If the Receiver receives a timely objection to any proposed claim amount, the Receiver will attempt to resolve the claim dispute through negotiation. If the parties are unable to resolve the dispute through negotiation, the Receiver will file a motion with this Court to seek resolution of the disputed claim.

25. If, during the claims verification process, the Receiver identifies any questionable or improper payments to insiders or agents who were also investors, the Receiver will file a separate

Motion for Disallowance and Reduction of Claim and seek review by this Court of any contested portion of the investor claim.

**CREATION OF A SINGLE INVESTOR POOL AND  
PROPOSED PRO RATA DISTRIBUTION**

26. The Receiver is not yet in a position to make a distribution to claimants. The Receiver will file a separate Notice of Proposed Distributions when the claims filing and allowance procedures have been approved and implemented and the claims are verified by the Receiver.

27. On December 15, 2008, United States Bankruptcy Judge John H. Squires entered an Order approving the Trustee's Fourth Amended Plan of Liquidation. On December 19, 2008, an initial distribution was made to the Receiver, on behalf of the Lake Shore claims, in the aggregate amount of \$34,787,915.87. To ensure that funds are distributed as expeditiously as possible, the Receiver seeks authorization to prepare and distribute a Notice of Distribution following the completion of the claims verification process. The Receiver proposes to set an objection date of 20 days following the Notice (the "Notice Objection Deadline"), and to make a pro rata distribution of available funds to the holders of all verified and undisputed claims at the expiration of the Notice Objection Deadline. The Receiver also seeks authorization to pay all claims in U.S. dollars.

28. The Receiver also proposes to consolidate all funds received and merge all investors who file claims into a single investor pool, regardless of the fund they initially invested in, and to calculate Approved Investor Claims on a pro rata basis. As used in these claims procedures, "pro rata" means the ratio of the amount that the Approved Investor Claim bears to the total amount of all Approved Investor Claims.

29. The Receiver believes this procedure appropriate because the investor funds for all four commodity pools were hopelessly commingled. As stated in the Receiver's First Report and

summarized above, there was significant commingling among the Funds. The Sentinel Bankruptcy Trustee has also documented the extensive commingling of the Lake Shore accounts in various pleadings filed in the Sentinel bankruptcy proceedings. The Lake Shore accounts at Sentinel were all commingled according to the Trustee's filings, and the Lake Shore deposits for all customers and all funds were commingled with all other SEG-3 customer funds at the Bank of New York. The Receiver has examined the Bank of New York account records which confirm this. Other documents examined by the Receiver and its staff show extensive commingling of all funds deposited at Sentinel and all Lake Shore accounts allegedly held at Sentinel for Lake Shore customers.

**THE RECEIVER REQUESTS APPROVAL OF THE PROCEDURE FOR LIMITED  
NOTICE OF THIS MOTION**

30. The Receiver has served the parties on the attached service list both by mail and through the court's electronic notification procedure and proposes to notify all potential investors and potential creditors of the estate by posting a copy of the motion on the Receiver's website. The Receiver will also serve by federal express or electronic mail all investors from which it has received a contact address or the address of an appointed representative. In light of the fact that the Motion is being served on the parties to the action and will be posted on the Receiver's website, the Receiver submits that it is reasonable and cost-effective to serve all creditors/investors of the Receivership entities by posting the Motion on the Receiver's website and by sending by federal express or electronic mail a copy of the Motion to the investors and creditors for whom contact details have been provided, or their appointed representatives. The Receiver requests approval to proceed on this basis.

## POINTS AND AUTHORITIES

31. A District Court's ability to grant equitable relief includes the power to order equitable monetary relief for consumer redress through repayment of money, restitution, disgorgement of unjust enrichment, or rescission. *FTC v. Febre*, 128 F.3d 530, 534 (7th Cir.1997). The power to grant ancillary relief also includes the power to appoint a Receiver to oversee the marshaling of assets and the distribution of investor funds or a defendant's ill-gotten gains to the victims of the fraud.

32. Numerous courts have held that the determination of the appropriate amount of restitution should be calculated based on "the amount paid by the consumer victims of an illegal scheme, less any amounts previously returned to the victims." *F.T.C. v. Think Achievement Corp.*, 144 F. Supp. 2d 1013, 1019 (N.D. Ind. 2000), citing *Febre*, 128 F.3d at 536; *FTC v. U.S. Sales Corp.*, 785 F. Supp. 737, 753 (N.D.Ill.1992); and *FTC v. GEM Merchandising Corp.* 87 F.3d 466, 469 (11th Cir.1996). *See also*, *CFTC v. Skorupskas*, 605 F. Supp. 923, 944 (E.D. Mich. 1985) which directed the Court –Appointed Receiver to formulate a plan of disbursement that "should attempt to reimburse an investor for amounts paid to [the defendant's] operation less any funds the investor received back." The Receiver's Proposed Claims Verification Procedure and request to treat all investor claimants as one pool is consistent with procedures approved in other, similar cases.

33. The Declaration of Brick Kane is submitted in support of this motion and is attached as Exhibit 3.

## CONCLUSION

For the reasons set forth herein, it is respectfully requested that this Court issue an Order approving the Receiver's proposed claims filing and allowance procedures as set out herein; to approve an initial Distribution to approved and verified claimants, on a pro rata basis, based on

the filing of a Notice of Distribution after the expiration of the notice objection deadline; for the approval of the procedures for notice and service of the motion as set forth therein; and for such other and further relief as the court may deem just and proper.

DATED: December 30, 2008

Respectfully submitted,

**ONE OF THE ATTORNEYS FOR  
ROBB EVANS & ASSOCIATES, LLC,  
THE TEMPORARY EQUITY  
RECEIVER FOR THE LAKE SHORE  
COMMON ENTERPRISE**

By:   /s/ Ira Bodenstein    
One of Its Attorneys

Ira Bodenstein (#3126857)  
S. Jarret Raab (#6294632)  
SHAW GUSSIS FISHMAN GLANTZ  
WOLFSON & TOWBIN, LLC  
321 N. Clark Street, Suite 800  
Chicago, IL 60610  
(312) 541-0151  
[ibodenstein@shawgussis.com](mailto:ibodenstein@shawgussis.com)  
[jraab@shawgussis.com](mailto:jraab@shawgussis.com)

# **EXHIBIT 1**

**ROBB EVANS & ASSOCIATES LLC**  
**Temporary Receiver of**  
**Lake Shore Asset Management, Ltd., et al.**

11450 Sheldon Street  
Sun Valley, California 91352-1121

**RECEIVER'S NOTICE TO INVESTORS**  
**November 1, 2007**

The United States District Court for the Northern District of Illinois Appointed Robb Evans and Associates LLC as Receiver of the assets of the Lake Shore Group of Companies on October 4, 2007. Lake Shore Asset Management Ltd. appealed this Order. The Court of Appeals affirmed the Order Appointing a Receiver on October 15, 2007. Accordingly, the Receiver is now taking steps to secure the transfer of all funds, accounts, financial records, and bank account information for all Lake Shore funds to the Receiver. The Receiver is directed to take these steps by the District Court Judge Blanche M. Manning, for the sole purpose of making a distribution of funds to the Lake Shore clients and directing, monitoring and supervising the Lake Shore companies' activities in accordance with the provisions of the Court Order.

We are taking all appropriate steps to ensure the transfer of funds and account records to the Receiver so that we can identify all customers and clients and verify what funds are available for distribution. To further this goal, we have asked the appropriate representatives of Lake Shore Asset Management Limited and related entities to sign consent forms authorizing the transfer of funds and release of documents to the Receiver. We assure you that all funds will be held in a receivership account for Lake Shore Asset Management Limited and that all documents and records will be secure and kept confidential at this time. If the Lake Shore Directors do not sign the authorizations we have requested, we will seek Court Orders in any appropriate jurisdiction to ensure that all Lake Shore funds and all account records are transferred to the Receiver in compliance with the Court Order.

We will be filing a report of assets with the Court within 60 days of our appointment, as required by the October 4, 2007 Order of Appointment. At present, we are analyzing financial records and reviewing the activities of Lake Shore to identify, collect, and take custody and control of all assets of the Lake Shore entities. Many of you have already provided information to us about your investments. If you have not provided us with your investment information, which should include proof of your wire transfer(s) to Lakeshore, you may email that information to [lakeshore@robbevents.com](mailto:lakeshore@robbevents.com) or you may mail the documentation to 11450 Sheldon Street, Sun Valley, CA 91352. We thank you for your cooperation and we will continue to keep you advised of our efforts on your behalf.

We will post all of our Court reports and relevant court orders and pleadings on our website for this case and we will be posting the Order of Appointment translated into Chinese, Spanish, and Japanese in the near future.



# **EXHIBIT 2**

**ROBB EVANS & ROBB EVANS & ASSOCIATES LLC  
TEMPORARY RECEIVER OF  
LAKE SHORE ASSET MANAGEMENT, LTD., ET AL.**

11450 Sheldon Street  
Sun Valley, California 91352-1121  
Telephone No.: (818) 768-8100  
Facsimile No.: (818) 768-8802

Date (TBD)

**RE: Commodity Futures Trading Commission vs. Lake Shore Asset Management Limited et al.**

**Notice of Claim Verification**

As indicated in our initial notice dated November 1, 2007, posted on the Receiver's website, the United States District Court for the Northern District of Illinois appointed Robb Evans and Associates LLC as Receiver of the assets of Lake Shore Group of Companies on October 4, 2007. On April 24, 2008, after entry of a default judgment and permanent injunction against the Lake Shore Common Enterprise, the District Court also entered an Amended Order Appointing Receiver. The Receiver is directed to take these steps by the District Court Judge Blanche M. Manning, for the sole purpose of making a distribution of funds to the Lake Shore clients and directing, monitoring and supervising the Lake Shore companies' activities in accordance with the provisions of the Court Order.

On (Date) the Honorable Blanche M. Manning approved the Receiver's recommendation for a Claims Verification Procedure. The approved procedure includes the following elements as to investors:

1. Investor account balances will be credited for funds actually deposited or paid by the investor to the Receivership Defendants.
2. Any credits characterized as gain and applied by the Receivership Defendants to increase investor account balance will be reversed.
3. Any actual payments of interest and actual payments for any other purposes, such as withdrawals of investment accounts, will be treated as a return of capital and the investor account balance is reduced accordingly.
4. No interest will be paid.
5. For those investors who are institutional investors, brokers, or authorized representatives who are submitting claims on behalf of numerous clients, each client must be identified on confidential communications to the Receiver. The Receiver will keep the client identities confidential, unless there is a Court-Ordered disclosure. If any third party seeks such an Order, the Receiver will notify any person who would be affected so that they will have an opportunity to oppose.
6. The client identification information includes the following: name, address (including email address, if available), telephone number, and for institutional investors, brokers or authorized representatives, the beneficial owner details provided to them by their customer at the time the account was opened.

To date we have not received any customer files or investment details from the Defendants. We are sending you this notice because you have already provided your contact information and/or certain

## Lake Shore Notice of Claim Verification

Page 2 of 2

Date

information about your investments. **Based on the documents provided by you, and pursuant to the approved claims verification procedure, the Receiver has determined your claim amount is US \$xxxxxx (Proposed Claim Amount)<sup>1</sup>.**

The objection procedure that applies to the claims process is:

(1) **The Proposed Claim Amount will be considered your final Approved Claim Amount unless you write to the Receiver and object to the Proposed Claim Amount within 45 days from the date this letter is sent to you.** The Receiver will attempt to notify all persons for whom it has contact information by federal express or email. All investors will be notified with Notice of the Claim Verification Procedures by posting on the Receiver's website. If you fail to timely object to the Receiver's calculation of your Proposed Claim Amount, then the amount set forth in this letter shall be your Approved Claim Amount upon which future distributions in this case shall be based.

(2) If we receive a timely objection from you to any proposed claim amount, we will attempt to resolve the claim dispute through negotiation. You must provide the following information to support your dispute:

- (a) The registered name for the Lake Shore account<sup>2</sup>;
- (b) The Lake Shore account number (e.g. it usually starts with 3 letters, followed by a 5-digit number)<sup>2</sup>;
- (c) Summary of each of your deposits and withdrawals / payments by amount and date; **AND**
- (d) Proof of payments for your deposits and withdrawals, including, but not limited to, wire transfer confirmation or canceled check, Lake Shore confirmation statement, Lake Shore monthly statement or historic statement which reflects the deposits and withdrawals in your claim.

**Your claim will not be approved without the appropriate or acceptable proof of payments for your deposits within the 45-day period specified above.** If we are unable to resolve the dispute through negotiation, the Receiver shall resolve your objection by motion to the United States District Court.

Please send the above required information and documents to the Receiver:

- (1) By mail to 11450 Sheldon Street, Sun Valley, CA 91352, USA;
- (2) By fax to +1 (818) 768-8802; or
- (3) By email to [Lakeshore@robbevans.com](mailto:Lakeshore@robbevans.com)

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<sup>1</sup> If your Proposed Claim Amount is \$0 or less than your actual claim, the Receiver may not have any or all of the documents required, as specified in this notice, in order to determine the accurate Proposed Claim Amount. If your Proposed Claim Amount is correct, you are still required to provide, if you have not previously provided, the information described as element #5 on page one of this notice, if you are an institution, broker, or authorized representative who files claims on behalf of one or more clients.

<sup>2</sup> The information is indicated in the account statement you or your client received from Lake Shore.

**ROBB EVANS & ROBB EVANS & ASSOCIATES LLC  
TEMPORARY RECEIVER OF  
LAKE SHORE ASSET MANAGEMENT, LTD., ET AL.**

11450 Sheldon Street  
Sun Valley, California 91352-1121  
Telephone No.: (818) 768-8100  
Facsimile No.: (818) 768-8802

Date (TBD)

**RE: Commodity Futures Trading Commission vs. Lake Shore Asset Management Limited et al.**

**Notice of Claim Verification**

As indicated in our initial notice dated November 1, 2007, posted on the Receiver's website, the United States District Court for the Northern District of Illinois appointed Robb Evans and Associates LLC as Receiver of the assets of Lake Shore Group of Companies on October 4, 2007. On April 24, 2008, after entry of a default judgment and permanent injunction against the Lake Shore Common Enterprise, the District Court also entered an Amended Order Appointing Receiver. The Receiver is directed to take these steps by the District Court Judge Blanche M. Manning, for the sole purpose of making a distribution of funds to the Lake Shore clients and directing, monitoring and supervising the Lake Shore companies' activities in accordance with the provisions of the Court Order.

On (Date) the Honorable Blanche M. Manning approved the Receiver's recommendation for a Claims Verification Procedure. The approved procedure includes the following elements as to investors:

1. Investor account balances will be credited for funds actually deposited or paid by the investor to the Receivership Defendants.
2. Any credits characterized as gain and applied by the Receivership Defendants to increase investor account balance will be reversed.
3. Any actual payments of interest and actual payments for any other purposes, such as withdrawals of investment accounts, will be treated as a return of capital and the investor account balance is reduced accordingly.
4. No interest will be paid.
5. For those investors who are institutional investors, brokers, or authorized representatives who are submitting claims on behalf of numerous clients, each client must be identified on confidential communications to the Receiver. The Receiver will keep the client identities confidential, unless there is a Court-Ordered disclosure. If any third party seeks such an Order, the Receiver will notify any person who would be affected so that they will have an opportunity to oppose.
6. The client identification information includes the following: name, address (including email address, if available), telephone number, and for institutional investors, brokers or authorized representatives, the beneficial owner details provided to them by their customer at the time the account was opened.

To date we have not received any customer files or investment details from the Defendants. We also have not received your response to our initial notice dated November 1, 2007 posted on the Receiver's website

## Lake Shore Notice of Claim Verification

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Date

and/or any information about your investments. Please provide the following information to support your claim within 45 days from this notice:

- (a) The registered name for the Lake Shore account<sup>1</sup>;
- (b) The Lake Shore account number (e.g. it usually starts with 3 letters, followed by a 5-digit number)<sup>1</sup>;
- (c) Summary of each of your deposits and withdrawals / payments by amount and date; **AND**
- (d) Proof of payments for your deposits and withdrawals, including, but not limited to, wire transfer confirmation or canceled check, Lake Shore confirmation statement, Lake Shore monthly statement or historic statement which reflects the deposits and withdrawals in your claim.

Based on the above six elements, the Receiver will calculate and notify you of your **Proposed Claim Amount<sup>2</sup>** in writing.

The objection procedure that applies to the claims process is:

(1) **The Proposed Claim Amount will be considered your final Approved Claim Amount unless you write to the Receiver and object to the Proposed Claim Amount within 45 days from the date that letter is sent to you.** The Receiver will attempt to notify all persons for whom it has contact information by federal express or email. All investors will be notified with Notice of the Claim Verification Procedures by posting on the Receiver's website. If you fail to timely object to the Receiver's calculation of your Proposed Claim Amount, then the amount set forth in this letter shall be your Approved Claim Amount upon which future distributions in this case shall be based.

(2) If we receive a timely objection from you to any Proposed Claim Amount, we will attempt to resolve the claim dispute through negotiation. You must provide the above required information (a) through (d) to support your dispute.

**Your claim will not be approved without the appropriate or acceptable proof of payments for your deposits within the 45-day period specified above.** If we are unable to resolve the dispute through negotiation, the Receiver shall resolve your objection by motion to the United States District Court.

Please send the above required information and documents to the Receiver:

- (1) By mail to 11450 Sheldon Street, Sun Valley, CA 91352, USA;
- (2) By fax to +1 (818) 768-8802; or
- (3) By email to Lakeshore@robbevans.com

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<sup>1</sup> The information is indicated in the account statement you or your client received from Lake Shore.

<sup>2</sup> If your Proposed Claim Amount is \$0 or less than your actual claim, the Receiver may not have any or all of the documents required, as specified in this notice, in order to determine the accurate Proposed Claim Amount. If your Proposed Claim Amount is correct, you are still required to provide, if you have not previously provided, the information described as element #5 on page one of this notice, if you are an institution, broker, or authorized representative who files claims on behalf of one or more clients.

# **EXHIBIT 3**

**DECLARATION OF BRICK KANE**

I, BRICK KANE, declare as follows:

1. I am the Chief Operating Officer of Robb Evans & Associates LLC, the duly appointed, qualified and acting Receiver in the within action. I have reviewed the foregoing Motion and know the contents thereof, and the same is true of my own knowledge, except as to those matters which are stated upon information or belief, and as to those matters, I believe them to be true.

2. The foregoing Motion seeks to implement a claims verification procedure described more fully in the Motion whereby the Receiver hopes to make an initial distribution to investors as soon as the claims verification process is completed.

3. Based on the Receiver's reconstruction of the financial records of the receivership defendants, there are at least 635 investors who will have claims in the receivership estate. This is likely understated since not all underlying documents have been submitted by some individual and institutional investors. Some of the institutional investors are making claims on behalf of several clients. The estimated total dollar amount of these investor claims is \$276 million. This amount is based on the Receiver's calculation of receipts and withdrawals as set out in the Receiver's First Report and as subsequently revised based on the continuing review of records by the Receiver. Additionally, there is one identified non-investor creditor with a claim in the estimated dollar amount of \$41,000.

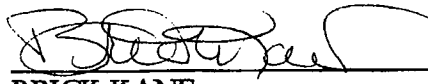
4. Shortly after being appointed, the Receiver placed a Notice to Investors on its website seeking information from Lake Shore clients to establish the estimated pool of claims. A copy of this Notice is attached hereto as Exhibit 1. As documented in numerous Motions filed by the Receiver and the CFTC, the Lake Shore defendants refused to turn over their books and records to the Receiver and the Receiver is informed and has reviewed shipping records and other

documents showing the customer files were transferred to Bermuda and from there to Switzerland, in care of Alexandre Schwab, an attorney representing defendant Lake Shore Asset Management Limited.

5. Attached hereto as Exhibit 2 are two versions of the proposed Notice to Investors setting out the information required by the Receiver to verify each investor claim. It is my belief that the establishment of a Claims Filing and Allowance Procedure in accordance with the proposed methods outlined in the Receiver's Motion and as set out in these Proposed Notices is in the best interests of the receivership estate.

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

Executed this 30 day of December 2008 at Sun Valley, California.

  
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BRICK KANE