

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

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Commodity Futures Trading Commission v. Lake Shore Asset Management Limited, et al.
CASE No. 07C-3598

Motion of Receiver for Order
Authorizing Payment of Administrative Fees and Expenses Incurred
for the Period September 1, 2008 Through December 31, 2008

Filed February 20, 2009

**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.)	
)	MAG. JUDGE MICHAEL T. MASON
LAKE SHORE ASSET MANAGEMENT)	
LIMITED, <i>et al.</i> ,)	
)	
Defendants.)	

**MOTION OF RECEIVER FOR ORDER AUTHORIZING
PAYMENT OF ADMINISTRATIVE FEES AND EXPENSES INCURRED
FOR THE PERIOD SEPTEMBER 1, 2008 THROUGH DECEMBER 31, 2008**

Robb Evans & Associates LLC, the Court appointed temporary equity Receiver (the “Receiver”) for the Lake Shore Common Enterprise (“LS Common Enterprise”), pursuant to LR 66.1 moves for the entry of an order authorizing the payment of the administrative fees and expenses incurred by the Receiver for the period September 1, 2008 through December 31, 2008 (the “Fee Period”).¹ 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.

2. The 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 the entities that comprise the LS Common Enterprise as defendants.

¹ For Manches LLP, London counsel for the Receiver, the time period for which the Receiver is seeking authorization is August 5, 2008 through December 31, 2008.

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.² 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, 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.

² 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.

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 \$241 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, defendants Philip J. Baker and LSAM have refused to repatriate funds held by the three London FCMs. Moreover, the Lake Shore entities in whose names the funds were held have filed numerous pleadings in London opposing the Receiver's claim. The London defendants have also refused to turnover the computer server and customer files and other Lake Shore documents transferred to Switzerland.

9. The actions of the LS Common Enterprise and Philip J. Baker have necessitated that the Receiver expend significant time and money to preserve all claims to the funds of LSAM in both the Sentinel bankruptcy and the London interpleader proceedings.

10. In particular, in addition to the Receiver having successfully had certain competing Proofs of Claim filed on behalf of the Lake Shore entities disallowed and expunged by the Bankruptcy Court in Sentinel, the Receiver also successfully had certain objections to the Receiver's Proofs of Claim filed by the Ad Hoc Committee of Seg-1 Customers of Sentinel stricken by the Bankruptcy Court.

11. As a result of those efforts, subsequent to the Bankruptcy Court entering its December 15, 2008 Order confirming the Plan of Liquidation filed by the Sentinel Trustee and the Official Committee of Unsecured Creditors, the Receiver, on December 19, 2008 received an initial distribution from the Liquidation Trustee in the amount of \$34,787,915.87.

12. Subsequent to the receipt of the Sentinel funds, the Receiver filed his Motion for Order Authorizing a Claims Verification Procedure. On January 30, 2009, an Order was entered approving the Receiver's motion. The Receiver is now in the process of sending out the approved claims notice and preparing the analysis needed to propose an interim distribution for court approval.

13. The Receiver, through its London counsel, Manches is vigorously pursuing the Receiver's claims in the London interpleader proceedings. Significant time and expense has been incurred up to this point and the Receiver will continue to incur significant expenses prior to the trial date, in discovery and preparation for trial.

14. The Receiver seeks approval of its fees and expenses for the Fee Period set forth in this request. This is the third request of the Receiver for approval of fees and expenses.

15. The Receiver seeks approval of the fees and expenses of the Receiver, the Receiver's staff, and the Receiver's counsel for the Fee Period. Payment of the approved fees and expenses will be made from the funds currently held by the Receiver. The fees and expenses for which approval is requested are set forth in the summary entitled "Receivership Expenses by Month" attached hereto as Exhibit 1.

16. The monthly invoices which were used to prepare Exhibit 1 are attached hereto as Exhibit 2. Due to the pendency of the London Interpleader and the continued and unwarranted actions of the LS Common Enterprise and Philip J. Baker, certain entries on the monthly invoices attached as Exhibit 2 have been redacted to remove information relating to strategy of the Receiver and its foreign and outside counsel. A full unredacted set of monthly invoices and the redacted pages will be delivered to the court with the courtesy copy of this motion. The Receiver as part of this motion seeks authorization for the filing of the redacted monthly invoices.

17. For this current application, the fees and expenses of the Receiver during the Fee Period include the following itemized items: Receiver's fees of \$81,011.60, staff fees for financial reconstruction and accounting of \$64,252.50, staff fees for information technology and database maintenance of \$6,793.32, and support staff fees of \$3,420.20. The total amount of fees sought is \$155,477.62.

18. Additionally, for the current application, the fees and expenses of the Receiver during the Fee Period for its outside counsel total \$445,472.28 itemized as follows: Shaw Gussis, \$74,353.30 and Manches LLP, \$371,118.98. The Receiver has filed an application in London to have the Lake Shore defendants in London deposit sufficient funds with the Court to pay for the Receiver's legal fees. Under English law, if the Receiver is successful, it is entitled to recoup its costs from the losing party. Because the Lake Shore defendants are located outside the jurisdiction, there is a risk they would fail to comply with a costs order. A hearing on the Receiver's application for security for costs is set for February 20, 2009.

19. As set forth in detail in Exhibit 1, and including additional out-of-pocket expenses of the Receiver of \$15,945.33, the Receiver has incurred \$616,895.23 in fees and expenses for the Fee Period.

20. During the relevant period, the Receiver, its staff and its outside counsel engaged in ongoing legal and administrative activities relating to the receivership estate, including the following:

i. The Receiver and its staff continue to meet with, and are in regular contact with, investors and their representatives to identify the clients and investments made by these clients with the Receivership Defendants.

ii. The Receiver and its staff have reviewed documents and conducted discovery regarding the investments made by the clients with the receivership defendants. Because the Receivership Defendants have refused to produce the books and records of the LS Common Enterprise, the Receiver and its staff have continued to spend a considerable amount of time attempting to reconstruct the investor database and create a substitute record of the investments of the Lake Shore clients.

iii. The Receiver is conducting worldwide discovery, including efforts to contact, interview, subpoena and depose individuals, banks and business affiliations with information about the assets of the Receivership Defendants. During the Fee Period, the Receiver participated in the depositions of Nick Eveleigh and Thomas Church.

iv. The Receiver and its staff are working with foreign counsel to take custody and control of all funds held on behalf of the Lake Shore Companies and have prepared numerous

documents supporting the London interpleader action and reviewed records from many sources to show the control and movement of funds through the Lake Shore accounts at Sentinel and the London FCMs, and the activities related to the funds that took place in the United States. During the Fee Period the Receiver and its London Counsel have spent significant time preparing witness statements to submit to the Court. The Receiver and its staff are working with the CFTC to review all the Lake Shore companies' books and records and to gain access to those records from various sources and through the cooperation of foreign authorities in several jurisdictions. The Receiver's counsel has prepared and responded to numerous discovery requests in connection with the ongoing litigations. As noted above, The Receiver's counsel has also filed a proceeding to impose the costs of the interpleader proceeding on Philip J.Baker.

v. The Receiver and its staff have continued to review records relating to customer deposits with Sentinel Management Group, Inc. and update the detailed report and analysis of all Lake Shore funds, deposits and transfers to the Lake Shore accounts at Sentinel.

vi. The Receiver and its staff are continuing the accounting and investigative work to identify all additional assets of the Receivership Defendants and have prepared detailed reports of and analyses of all funds transferred to and through Hanford and Anglo International Associates Ltd., a London based professional services company which provided payroll services for the LS Common Enterprise.

vii. The Receiver, its staff and its bankruptcy counsel performed all accounting and investigative work required to ensure that the Receiver was the only party entitled to receive distributions from the Sentinel Trustee. Working closely with the Sentinel Trustee and the Official Committee of Unsecured Creditors, the Receiver supported the efforts leading to confirmation of the Sentinel Plan and receipt of an interim distribution.

21. Pursuant to LR 66.1(a)(1), the court shall have discretion to fix the allowance of compensation of the Receiver and its attorneys. The Receiver has served all parties who have filed

appearances in the case with a copy of this Motion and all Exhibits by electronic mail through the court noticing system. The Receiver will also post a copy of the Notice of Motion, Motion, with all Exhibits on the Receiver's website. The Receiver will also provide a written copy of the Motion and all Exhibits to any investor, upon request. The Receiver believes that under the circumstances such notice is sufficient.

22. In support of this Motion, the Receiver attaches the Declaration of Brick Kane as Exhibit 3.

CONCLUSION

23. In light of the extensive work performed, and the necessity of verifying and reconstructing financial information and investor details due to lack of any document production by the receivership defendants, it is respectfully submitted that the fees and expenses of the Receiver and its professionals are reasonable and should be approved and authorized for payment.

WHEREFORE, the Receiver prays that this Court enter an Order as follows:

1. Approving confirming and authorizing for payment, the administrative fees and expenses of the Receiver and its staff and counsel for the Receiver, for the period September 1, 2008 through December 31, 2008, as more particularly set forth herein.

2. Approving the procedures for notice of this Motion by serving all parties who have appeared in this case through the courts electronic noticing system, and providing notice to all investors by posting the Notice of Motion, Motion and all Exhibits on the Receiver's website.

