

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 Approval to make Additional Distribution

Filed May 24, 2010

**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 APPROVAL TO MAKE ADDITIONAL DISTRIBUTION

Robb Evans & Associates LLC, the Court appointed temporary equity Receiver (the “Receiver”) for the Lake Shore Common Enterprise by and through its counsel, hereby moves the Court for authorization to make an additional distribution to certain investors who made Post-Freeze Deposits (the “Motion”).¹ In support of the Motion the Receiver respectfully states as follows:

1. On October 30, 2009, the Receiver filed the Distribution Motion.
2. On March 15, 2010, this Court entered a Memorandum and Order approving the Distribution Motion (the “(Distribution Order”) [Dkt. No. 770].
3. The Distribution Order was amended by Order entered on March 26, 2010 [Dkt. No.790] to among other things, provide for the creation of a reserve for the claim of Andorra Bank Agricol Reig S.A. (the “Andbanc Reserve”) and adjust the amount of the distribution to investors in the Approved Claims Base as a result of the creation of the Andbanc Reserve (the “Amended Distribution Order”).

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Receiver’s Motion for Approval of Proposed Distribution Plan and Method Used In the Calculation of Disbursements to Investors (the “Distribution Motion”) [Dkt. No. 692].

4. In the Distribution Motion, the Receiver sought approval to return to twenty one (21) investors the amount of 3,084,948.80 which represented 100% of the Post Freeze Deposits made by said investors, which approval was granted by the Distribution Order.

5. Beginning on April 6, 2010 and ending on April 26, 2010, the Receiver distributed the funds to the investors in the Approved Claims Base including the funds to the twenty one (21) investors who had made Post Freeze Deposits.

6. Subsequent to completing the authorized distribution, the Receiver became aware that as to seven (7) of the investors who received a distribution which included an amount attributable to Post Freeze Deposits, a calculation error had occurred. In those seven (7) accounts, the investors had both deposits made prior to the entry of the CFTC freeze order (“Pre Freeze Deposits”) and Post Freeze Deposits. The distribution schedule attached as an exhibit to the Amended Distribution Order did not segregate the Post Freeze Deposits from the Pre Freeze deposits causing the Pre Freeze Deposits to be disproportionately reduced when calculating the dollar amount to be received based on the 40.77% distribution ratio used to calculate the distribution.² Attached as Exhibit A is the Receiver’s spread sheet which list the seven (7) accounts and a revised calculation which segregates the Pre Freeze Deposits and the Post Freeze Deposits. The total amount to be distributed to those investors to rectify the calculation error is \$552,780.59.³

7. By this Motion, the Receiver seeks authority to make an additional distribution in the amount of \$552,780.59 to the seven (7) investors whose accounts are listed on Exhibit A. The source of the funds to be used by the Receiver will be the previously approved hold back in the sum of \$1,000,000 which was to be used for payment of the receivership estates administrative

² The 14 other accounts which received a distribution of Post Freeze Deposits did not have Pre Freeze Deposits.

³ The names of the investors have been redacted for security purposes.

fees and expenses. The Receiver believes that the remaining balance of the hold back (\$447,219.41) is sufficient to fund the administrative fees and expenses prior to the receipt of any additional funds which may be recovered.

WHEREFORE, the Receiver respectfully requests that this Court grant the Motion and authorize the Receiver to make an additional distribution in the amount of \$552,780.59 to the investors whose accounts are listed on Exhibit A, hereto.

DATED: May 24, 2010

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

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EXHIBIT A

			Deposit	Pre- Receivership Payment	100% Distribution for post-freeze deposits	Actual 1st Distribution	1st Distribution Recalculated Based on 40.77%	Additional Distribution based on 40.77%		
ZFS32223	257		25,195.00	-	-		10,272.00		40.77%	
ZFS32223	257a		732.50	-	732.50		732.50		100.00%	
			25,927.50	-	732.50	10,569.81	11,004.50	434.69		Family Council
ZFS32228	578		51,390.20	-	-		20,951.78		40.77%	
ZFS32228	578a		4,482.50	-	4,482.50		4,482.49		100.00%	
			55,872.70	-	4,482.50	22,777.50	25,434.27	2,656.77		Family Council
JH11275	594		459,592.00	-	-		187,375.66		40.77%	
JH11275	594a		136,160.00	-	136,160.00		136,159.67		100.00%	
			595,752.00	-	136,160.00	242,868.94	323,535.33	80,666.39		Fiona Mullarkey
ZFS21830	734		366,376.26	100,000.00	-		49,387.52		40.77%	
ZFS21830	734a		17,423.44	-	17,423.44		17,423.40		100.00%	
			383,799.70	100,000.00	17,423.44	56,462.80	66,810.92	10,348.12		Family Council
HCS32481	776		42,985.00	-	-		17,524.98		40.77%	

			Deposit	Pre- Receivership Payment	100% Distribution for post-freeze deposits	Actual 1st Distribution	1st Distribution Recalculated Based on 40.77%	Additional Distribution based on 40.77%		
HCS32481	776a		23,985.00	-	23,985.00	27,301.52	23,984.94	14,208.40	100.00%	Mike Haulhan
			66,970.00	-	23,985.00		41,509.92			
IVV32839	913f		5,581,151.55	122,237.58	-		2,153,208.27		40.77%	
IVV32839	913a		341,773.40	-	341,773.40		341,772.58		100.00%	
			5,922,924.95	122,237.58	341,773.40	2,292,348.55	2,494,980.85	202,632.30		David Berg
NA	1168		12,472,546.21	308,129.09	-		4,776,985.20		40.77%	
NA	1168a		407,501.68	-	407,501.68		407,500.71		100.00%	
			12,880,047.89	308,129.09	407,501.68	4,942,652.00	5,184,485.91	241,833.91		Fortis
								552,780.59		