

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

U.S. COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

JAMES HARVEY MASON,

Defendant, and

THE JHM FOREX ONLY POOL (f/k/a  
THE JHM FOREX ONLY POOL, LP), and  
FOREX TRADING AT HOME,

Relief Defendants.

NO. 3:13-CV-196

**RECEIVER'S EIGHTH REPORT**

Joseph W. Grier, III as Receiver (the "Receiver") for the assets of James Harvey Mason ("Defendant"), The JHM Forex Only Pool (f/k/a The JHM Forex Only Pool, LP), and Forex Trading at Home (the "Relief Defendants"), and, pursuant to the *Order to Clarify the Scope of the Receivership Estate to Include Certain Trust Assets* entered herein on April 22, 2013, The JHM Trust, including any and all assets held therein (the "Trust," and, collectively, with the assets of the Defendant and Relief Defendants, the "Receivership Assets") hereby files this *Receiver's Eighth Report* pursuant to this Court's *Statutory Restraining Order*, entered on March 27, 2013 (the "Receivership Order"). The Receivership Order was entered in response to the complaint filed by the Commodity Futures Trading Commission (the "CFTC") on March 27, 2013. Pursuant to Section VI.E of the Receivership Order, this report summarizes the Receiver's

efforts to marshal and collect assets, administer the receivership estate and otherwise perform the duties mandated by the Receivership Order.

1. **Identification of Assets.** Assets identified by the Receiver as well as the status of each of those assets are set forth in the attached as Exhibit A. As of October 6, 2015, the Receiver has received cash or proceeds of liquidated assets totaling \$1,673,243.95. Pursuant to the Receiver Order, the Receiver must carry costs to identify, preserve and sell the Receivership Assets, including legal fees and thus the Receivership has incurred \$536,513.53 in such costs. The Receiver made his first interim distribution of \$900,000.00. The Receiver is holding the balance of 236,730.57. A detailed listing of all receipts and disbursements of the Receiver to date, as well as the balance on hand, is attached as Exhibit B.

2. **Continued Investigation of Assets.** The Receiver believes he has identified and liquidated all Receivership Assets.

3. **Recovery of Assets.** Since the filing of *Receiver's Seventh Report*, and with Court approval, the Receiver reached settlements with various customers who received transfers from Defendant in excess of their principal investment with Defendant ("Net Winners"), including Joey Barnhill, Joseph and Rita DeOliveira and Rob White/J&R Enterprises USA. The Receiver continues to collect monthly payments from Net Winners who are making payments over time – all of these settlements should be paid in full by March, 2016. Since the last Receiver's Report, the Receiver has collected \$97,206.68 from Net-Winners.

Other than the aforementioned settling Net Winners, the only remaining Net Winners either: (a) are located overseas; (b) are liable to the Receivership Estate in an amount less than \$1,500.00; or (c) based on the Receiver's investigation, have little to no non-exempt assets that could be used to satisfy any judgment ultimately entered in favor of the Receivership Estate.

After factoring in the costs and uncertainty of litigation and judgment collection, the Receiver believes pursuing the remaining Net Winners who have not yet settled with the Receivership Estate would be adverse to the Receivership Estate's best interests.

4. **Identification and Communication with Customers.** The Complaint filed by the CFTC alleges that Defendant fraudulently solicited, accepted and pooled funds to trade off-exchange foreign currency contracts and ultimately misappropriated a significant portion of those funds for purposes other than forex trading, all in violation of the Commodity Exchange Act, 7 U.S.C. §§ 1 *et seq.* The Receiver has set up a website to facilitate communications with individuals who provided funds to Defendant (the "Customers"). That website is available at [www.masonreceivership.wordpress.com](http://www.masonreceivership.wordpress.com) (the "Website") and can be accessed by anyone. Comments or questions can be posted through a comment section set up in conjunction with the Website. Moreover, all traffic to the websites through which Defendant primarily communicated with Customers has been redirected to the Website.

The Receiver has compiled a list of Customers' contact information through information provided by the CFTC, information gathered from the Website, Defendant's computer and email records, information provided by the Customers themselves and information otherwise available to the Receiver. The Receiver will continue to use electronic mail as the primary avenue for addressing and contacting Customers.

5. **Determination of Amount Invested By Each Customer/Customer Claims.** Since the filing of *Receiver's Seventh Report*, the Receiver received Court approval of the *Receiver's Report of Claims, Objections to Claims and Recommendations Regarding Claims* thus settling claims for distribution purposes (the "Claims Report"). The only objection to the Claims Report was filed by a group of Customers who asserted a priority in payment from

certain Receivership Assets and took exception to the Receiver's proposal of paying each and every Customer pro rata from all Receivership Assets. In its Order approving the Claims Report, the Court agreed with the Receiver that the objecting Customers should be paid on par with all other similarly-situated Customers.

6. **Portion of Assets Available to Pay Back Customers.** Subject to Court approval, all funds collected by the Receiver as property of the Receivership Estate, less the costs of administration of the Receivership and any other disbursements approved by the Court, should be available to pay back Customers with Allowed Claims.

7. **Distribution.** On June 18, 2015, the Receiver sought Court approval to make a first interim distribution to allowed claimants, and, on July 7, 2015, the Court approved such distribution. Pursuant to court orders the Receiver made his first interim distribution of \$900,000.00 to allowed claimants using the "Rising-Tide formula" previously approved by the Court. Each and every Customer entitled to funds pursuant to the first interim distribution of \$900,000.00 has deposited the corresponding distribution check or otherwise received the funds due to them pursuant to the first interim distribution. The Receiver anticipates making one additional distribution to allowed claimants after all Net-Winner payment streams have been completed which should be in the first quarter of 2016.

8. **Criminal Action vs. James Mason.** On August 3, 2015, the Honorable Frank Whitney conducted the sentencing hearing in the criminal case against James H. Mason. The Court sentenced Mason to 96 months' imprisonment, the maximum sentence allowed by law for the charges to which Mason pleaded guilty. The Receiver appeared at the sentencing hearing and updated the Court as to the status of the receivership. In addition to imprisonment, the

Court ordered Mason to pay restitution in the amount of \$4,325,820.79. Additional details pertaining to the criminal case are available on the Website.

9. **Winding Up.** The Receiver anticipates winding up the Receivership in 2016 after making a final distribution, filing necessary tax returns and making final reports to the Court. In the interim the Receiver will continue to update the on-line informational interface with Customers. Unless otherwise requested by the Court or dictated by changing circumstances, the Receiver does not anticipate filing a subsequent report with the Court until he is ready to make his final distribution.

Respectfully submitted, this 2nd day of November, 2015.

/s/ Joseph W. Grier, III  
Joseph W. Grier, III (State Bar No. 7764)  
Receiver  
Grier Furr & Crisp, PA  
101 North Tryon Street, Suite 1240  
Charlotte, North Carolina 28246  
Phone: 704.375.3720  
Fax: 704.332.0215  
[jgrier@grierlaw.com](mailto:jgrier@grierlaw.com)

Exhibits:

- A. List of Assets with Status
- B. Receipts & Disbursements

CERTIFICATE OF SERVICE

I hereby certify that on November 2<sup>nd</sup>, 2015, I electronically filed with the Clerk of the Court, the ***RECEIVER'S EIGHTH REPORT, EIGHTH MOTION FOR COMPENSATION TO GRIER FURR & CRISP, PA, ATTORNEYS FOR THE RECEIVER, with NOTICE***, using the CM/ECF system, and caused it to be served by U.S. Postal Service Mail, postage prepaid, or via electronic mail as indicated on the following at their last known addresses, or by email service:

James Harvey Mason PID: 0000425831 P.O. Box 34429 Charlotte, NC 28234-4429	Customers via electronic mail Also Posted on Receiver's Web Page
The JHM Forex Only Pool (f/k/a The JHM Forex Only Pool, LP) c/o James Harvey Mason PID: 0000425831 P.O. Box 34429 Charlotte, NC 28234-4429	Forex Trading At Home c/o James Harvey Mason PID: 0000425831 P.O. Box 34429 Charlotte, NC 28234-4429
Barry R. Blankfield Senior Trial Attorney Commodity Futures Trading Commission Division of Enforcement Via e-mail: <a href="mailto:bblankfield@cftc.gov">bblankfield@cftc.gov</a>	John A. Fagg, Jr. Frank E. Schall Moore & Van Allen PLLC 100 N. Tryon St., Ste. 4700 Charlotte, NC 28202 <a href="mailto:johnfagg@mvalaw.com">johnfagg@mvalaw.com</a> <a href="mailto:frankschall@mvalaw.com">frankschall@mvalaw.com</a>

/s/ Anna S. Gorman  
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