

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
NO. 3:13-CV-196

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.

RECEIVER'S NINTH 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 Ninth 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. **Assets/Liabilities and Distribution.** All assets identified by the Receiver as well as the summary status of each of those assets are set forth in the attached as Exhibit A (the “Mason Receivership Summary Asset Chart”). As of March 1, 2016, the Receiver has received cash or proceeds of liquidated assets totaling \$1,709,451.81. As reflected on the Balance Sheet attached hereto as Exhibit B and the detailed Receipts/Disbursement Record attached hereto as Exhibit C, this recovery is made up of \$628,730.46 in assets liquidated by the Receiver, \$644,115.38 recovered by the Receiver in cash or from financial institutions, and \$436,605.97 recovered by the Receiver from “Net-Winners”. Pursuant to the Receivership Order, the Receiver must carry costs to identify, preserve and sell the Receivership Assets, including legal fees; the Receivership has incurred \$564,629.75 in such costs. As shown on the Income Statement and Receipts/Disbursements Record, these costs are made up of asset maintenance expense of \$10,311.34, asset liquidation expense of \$91,582.90, legal and accounting fees of \$458,663.53 and \$4,071.98 in miscellaneous expenses. The Receiver made his first interim distribution of \$900,000.00 after July 7, 2015. The Receiver is holding the balance of 244,822.06.¹ From this balance the Receiver, in his *Motion (I) for Authority to Make Final Distribution and to Establish Distribution Amounts and (II) for Authority to Pay Social Security Funds to the Court Registry* filed simultaneously herewith, proposes to distribute \$205,000 to allowed claimants. The balance will be reserved for final expenses of the Receivership including legal and accounting fees allowed by the Court.

2. **Recovery of Assets Since the Prior Receiver’s Report.** Since the filing of *Receiver’s Eighth Report* the Receiver continued to collect monthly payments from Net Winners

¹ As discussed in greater detail in Section 3, *infra*, \$14,266.63 of the \$244,822.06 cannot be accurately described as receivership assets, but rather represent funds distributed to Defendant as social security benefits. Pursuant to that certain *Order* entered in this action on September 5, 2014, “[Defendant’s] Social Security benefits . . . are not receivership assets.” *See* Doc. No. 97 at page 4 of 4.

who made payments over time – all of these settlements have been paid in full. Since the last Receiver’s Report, the Receiver has collected \$31,986.68 from Net-Winners.

3. Social Security Benefits. The Receiver has collected \$14,263.63 in Social Security benefits paid to Defendant by the Social Security Administration (the “SSA”). The SSA has asserted that a portion of the \$14,263.63 represents an overpayment to Defendant refundable to the SSA; however, to the Receiver’s knowledge, the SSA is yet to determine the exact amount of the alleged overpayment. Defendant, through counsel, has expressed an interest in acquiring the balance of the Social Security benefits collected by the Receiver that are not otherwise due to be refunded to the SSA. In addition, pursuant to the asset forfeiture provisions in Defendant’s guilty plea documents and judgment entered in the criminal case against Defendant, the U.S. Department of Justice has indicated that it would seek to collect whatever portion of the Social Security benefits collected by the Receiver that are not due to be refunded to the SSA. Based on the foregoing, the Receiver, through his *Motion (I) for Authority to Make Final Distribution and to Establish Distribution Amounts and (II) for Authority to Pay Social Security Funds to the Court Registry* filed simultaneously herewith, proposes to pay the \$14,266.63 to the Court Registry.

4. Communication with Customers. The Receiver continues to maintain a website to facilitate communications with individuals who provided funds to Defendant (the “Customers”). That website is available at www.masonreceivership.wordpress.com (the “Website”) and can be accessed by anyone.

5. 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. 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.

6. Winding Up. The Receiver is in the process of winding up the Receivership by making a final distribution, filing necessary tax returns and making a final report to the Court. Thereafter, the Receiver will seek to be dismissed as Receiver by this Court.

Respectfully submitted, this 8 day of March, 2016.

/s/Joseph W. Grier, III
Joseph W. Grier, III (State Bar No. 7764)
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Exhibits:

- A. Mason Receivership Summary Asset Chart
- B. Income Statement
- C. Detailed Receipts/ Disbursements Record

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing *Receiver's Ninth Report* was served by electronic notification on those parties registered with the United States District Court, Western District of North Carolina electronic case filing system to receive notices for this case, unless otherwise noted below.

Barry R. Blankfield (bblankfield@cftc.gov)
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Customers
Via email and online publication

The JHM Forex Only Pool and
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Via U.S. Mail

Amy N. Holthouser (amyh@mcintoshlawfirm.com)
Prosser D. Carnegie (sandy@mcintoshlawfirm.com)

This is the 8th day of March, 2016.

/s/ Michael L. Martinez

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