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Hearing Date and Time:
April 8, 2014; 2:00 p.m.
Response Deadline: April 1, 2014 at: 4:00 pm

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re

MF GLOBAL HOLDINGS, LTD, et. Al

Chapter 11

Case No. 11-15059 (MG)

Debtors.

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(Jointly Administered)

In re:

MF GLOBAL INC.

Case No.: 11-2790 (MG) SIPA

Debtor

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MOTION TO (1) RECONSIDER AND VACATE THE MOTION TO MODIFY THE CONSENT ORDER FILED AS DOCUMENT#1227 ON MARCH 23, 2013 AND ENTERED AS DOCUMENT # 1348 ON APRIL 19, 2013; (2) TO COMPEL DISCLOSURE OF ALL APPLICABLE PERIOD 2 POLICIES OF INSURANCE COVERING AND AMOUNTS REMAINING ON THE POLICIES AND (3) FOR COSTS.

Susan J. Levy, Esq. an attorney duly licensed to practice in the Courts of New York and licensed to practice law before this Bankruptcy Court in the Southern District of New York, appearing Pro Se, submits this Motion pursuant to Federal Rules of Bankruptcy Procedure 3008, 7054, 9014, 9023-1, 9024, and the Federal Rules of Civil Procedure 54(b) and 60(b) for an

Order for the following relief: (1) For reconsideration of the previous Motion to Amend and Expand the Consent order relating to Certain Errors and Omissions Insurance Policies filed as Document ##1227, et. Seq. on March 22, 2013 which sought to expand the original Consent Order Doc. # 535 dated March 7, 2012, as well as an order vacating the resulting Order, Document #1348, on the Electronic Docket Sheet dated April 19, 2013; Annexed hereto as Exhibits 1 is the Motion # 1227, and as Exhibit 2 the Order dated April 19, 2013 Docket # 1348 resulting therefrom, (2) Ordering discovery of all Applicable Policies of Insurance that potentially cover my Claim and amounts remaining of the policies, pursuant to Federal Rule of Civil Procedure 37(a)(5)(A) and Federal Rule of Bankruptcy Procedure 7037 and (3) Costs pursuant to Federal Rule of Civil Procedure Rule 11.

Standing to Make This Motion

1. Although my name appears right on the face of the Welsh Bankruptcy Settlement Agreement annexed hereto as Exhibit 3, and MFGA purposefully intended to effect my rights, I was and am a party-in-interest with standing to be heard. Thus, MFGA's intentional failure to serve me by mail with notice of their prior motion requires vacatur on that basis alone. Indeed, the affidavit of service by MFGA does not even state that proper service was effected upon me by mail in this contested proceeding, as required under Section 7(c)(i)(1) of the Case Management Procedures Order, 11-02790, Docket Number 3062. Indeed, because the motion constitutes a contested matter, I should have been served by mail. I simply never saw the email notification if it was ever sent. I fortunately became aware of this Order by doing a routine review of the electronic docket sheet which I do from time to time.

2. In addition, as a Pro Se litigant, service by mail should have been furnished. I

was expecting service by mail of all relevant documents that affect my rights. Morrison and Forrester have been serving me by mail and that is the proper procedure upon information and belief.

3. In addition, because the instant motion related to MFGA a non-debtor, Joseph Welsh, a non-debtor, and myself, a non-debtor, the Case Management Order alone may not be sufficient, and the Federal Rules of Civil Procedure may also apply, since the prior motion only involved non-debtors.

4. As such, I request vacatur of this Consent Order based on lack of in personam jurisdiction based on improper service alone, since I have had no right to be heard. In effect, the equivalent of a default judgment has been taken against me.

5. Indeed, under similar circumstances, at least one other Court has concluded that this sort of relief over a non-debtor such as myself is simply outside the reach of the bankruptcy jurisdiction. Thus upon reconsideration, I respectfully request that this Honorable Court re-examine whether jurisdiction is lacking over myself, since I may be bound by the Welsh Bankruptcy Settlement Agreement absent vacatur. See Matter of Zale Corporation v. Feld, 62 F.3d 746, 64 USLW 2223 Bank. L. Rep. P 76,617 (5th Cir. 1995)(Fifth Circuit reversed Lower Court holding that Bankruptcy Court's related jurisdiction did not extend over third-party plaintiffs who sought to pursue bad faith claims against debtor's insurer.)

Preliminary Statement

6. The gravamen of the instant Motion for Reconsideration and Vacatur is based on the Settlement Agreement between MFGA and Welsh also referred to herein as the Welsh Bankruptcy Settlement Agreement Docket # 1227-2 and annexed hereto as Exhibit 3. It is a

product of misrepresentation in violation of Federal Rule of Civil Procedure 60(b)(3) and is purposely calculated to allow MFGA to evade its good faith obligations under New York State Insurance Law to do what it is supposed to do as a bona fide insurance company doing business in the State of New York which is to pay, not avoid, validly presented claims that trigger insurance coverage under the terms of the MFGA E & O policy , in my case as well as in the companion Class Action referred to as the "P & P claims" or also called In Re Platinum and Palladium, 10 CV 3617 (S.D.N.Y. 2010). See Scottsdale Insurance Co. v. Indian Harbor Insurance Co. 2014 WL 185597, *11 (S.D.N.Y. 2014)(Court holding: "In New York, insurers owe a duty to those they insure 'to act in 'good faith' when deciding whether to settle' a claim); Pinto v. Allstate 221 F.3d 394, 398 (2d Cir 2000)("Because an insurance company has exclusive control over a claim against its insured, once it assumes defense of the suit, it has a duty under New York law to act in "good faith" when deciding whether to settle such a claim, and it may be held liable for breach of that duty"); accord Acquista v. New York Life Insurance Co., 285 A.D.2d 73, 730 N.Y.S.2d 272.

7. The facts of these cases are not complex at all, and are based on alleged rank manipulation of part of the Commodities Markets in my case the NYMEX Platinum market where unlawful "bang the close" transactions allegedly occurred, allowing what can be described as a massive "pump and dump" operation wiping out good faith investors including myself whose FCM was MF Global, Inc. What is really shocking is that this alleged wrongful conduct, tanked the entire United States Market Platinum and Palladium markets during the relevant time frame, because these precious metals are traded in highly illiquid markets. Although Market Manipulation is defined under the Commodities Exchange Act as a Felony, my claims sound in civil damages only.

8. The Settlement Agreement and Release annexed hereto as Exhibit 3 is referred to as the Welsh Bankruptcy Settlement Agreement to be distinguished from another Settlement Agreement that unbeknownst to this Honorable Court was also being negotiated contemporaneously with this Welsh Bankruptcy Settlement Agreement. It was essential that the Class Action Settlement Agreement negotiations be disclosed to this Court prior to this Court ruling, because of the great impact this Court's order may have on the Class Action Settlement Agreement. Such lack of candor is inexcusable.

9. Indeed, this second Settlement Agreement, annexed as Exhibit 4, the Welsh Class Action Settlement Agreement negates and contradicts the Welsh Bankruptcy Settlement Agreement which is referred to herein as "The Welsh Class Action Settlement Agreement." It is also entitled "Stipulation and Agreement of Settlement." The relevant portions of this Class Action Settlement Agreement and signature pages are annexed hereto in pertinent part as Exhibit 4, and is Electronically filed in the Southern District of New York under docket number 141-1 to case 1:10-cv-03617 on September 18, 2013. It was in part negotiated and signed by Kobre and Kim, the same attorneys acting in the Welsh Bankruptcy Settlement Agreement.

10. This Welsh Class Action Settlement Agreement was also negotiated from approximately May, 2012 through September, 2013, upon information and belief, and ultimately signed by Kobre and Kim on or about August 20, 2013. One wonders how this Class Action Settlement Agreement could have even been signed off by Kobre and Kim, on August 20, 2013, since the Consent Order was expanded on April 19, 2013 approximately 4 months prior, cutting off the MFGA E & O coverage from Welsh including defense counsel for Welsh.

Procedural History

11. I come before this Honorable Court as a Plaintiff in a related action pending in the Southern District of New York, 13-CV-1858 entitled Levy v. Welsh, Et. Al. I also have a proof of claim filed against MF Global, Inc. and Holdings in the Bankruptcy. Holdings has recently withdrawn their objection to my claim without prejudice. Because Defendant Joseph Welsh was also an MFGI officer and employee of MFGI, he should be covered by the Errors and Omissions Period 2 policies underwritten by MF Global Assurance Co. ("Assurance") hereinafter as well as Directors and Officer's Insurance underwritten by U.S. Specialty Trust and/or XL Specialty Trust for the policy year 2010-2011, upon information and belief. Upon information and belief, there is $70 million dollars of E & O coverage with respect to the MFGA policies.

12. I also claim that MFGI's parent company is MF Global Holdings is also vicariously liable for all acts of MF Global, Inc. *inter alia* based on the Commodity Exchange Acts Vicarious Liability Statute codified at 7 U.S.C. § 2(a)(1)(B). Because Market Manipulation is also equivalent to Price Fixing, there is a claim under the Federal Antitrust laws, including the Sherman Act §§ 1,2. There are also claims sounding in breach of fiduciary duty and other claims.

13. Platinum and Palladium are both precious and industrial metals like gold and silver as well as aluminum and copper. Unfortunately there were massive loses for market investors in favor of the other market participants who were allegedly actively manipulating the market.

14. In addition, two other related cases are also pending before The Honorable Judge Pauley including a government action for civil fines against Mr. Joseph Welsh entitled CFTC v. Welsh, 12-CV-01873 (SDNY 2012) in the approximate amount of $1,560,000.00

dollars for fines allegedly owing by Mr. Welsh.

15. There is also a related Class action pending before The Honorable Judge Pauley, entitled In Re Platinum and Palladium, 10-CV-3617 (SDNY 2010) or the "P & P" claims. I have been referred to as an Opt Out Plaintiff. These three cases revolve around the same operative facts relating to the conduct of certain traders and brokers including Mr. Welsh who engaged in and/or aided and abetted and/or acted negligently in connection with allegedly illicit "bang the close" transactions, causing these markets to crash.

16. Currently, Preliminary Approval of the Class Action Settlement has not been ordered. As part of the proposed Class Action Settlement Joseph Welsh an MFGI officer and employee upon information and belief, agreed to do four things (1) Enter a Judgement for $35,000,000.00 (Thirty Five Millions Dollars) against him personally; (2) To admit to one count of Negligence, (3) to assign his rights under all relevant insurance policies to the Class Plaintiffs and/or myself so we can presumptively bring a direct action against the relevant insurance carriers under N.Y.Insurance law § 3420(a)(2), and (4) to cooperate with Class Counsel. Thus, according to this Proposed Settlement, Mr. Welsh would receive a full general release in connection with the Class Action Claims.

17. However, unless I vacate the Order of this Court dated April 19, 2013, I will be impaired from proceeding against MFGA based on the relevant E & O policies in effect. Normally, under New York's insurance law, an insured, like Mr. Welsh, can freely assign his rights under a Policy and the assignee, myself, can commence a direct action against the insurer if a final judgment is not satisfied by the Insurer within 30 days of presentment. See Insurance Law § 3420(a)(2). In addition, vacature is warranted since:(1) there were no valid reasons for

expanding the consent order; (2) the disclaimer of Welsh was invalid under well-established New York State Precedent, (3) MFGA is ignoring its good faith obligations to pay its claims.

Argument

1. Because the Welsh Bankruptcy Settlement Agreement Directly Interferes with the Welsh Class Action Settlement Agreement; and the Two Agreements are Incompatible; Vacatur of the Consent Order is Required to a Avoid Substantial Prejudice to Third-party Plaintiffs trying to Settle Claims.

18. During this 16 month period when the Class Action settlement was in full swing, on or about March 22, 2013, in this parallel Bankruptcy Court universe, Assurance decided to file a motion in this Honorable Court calculated to block the Class Action's and my attempt to gain access to the insurance proceeds. MFGA did this by moving to expand the Consent Order originally entered as ECF Docket # 535 on March 7, 2012. Movant, Assurance, without citing any precedent to support its standing to make such a motion and may not even have full- standing to move this Honorable Court to expand the consent order absent joinder by Holdings or MFGI a debtor, nevertheless, sought an order from this Court to avoid any obligations that Welsh would have to perform under the Class Action Settlement Agreement.[1]

19. More specifically, this Welsh Bankruptcy Settlement Agreement will negate each and every promise Welsh is making in the Class Action Settlement Agreement or a potential agreement with myself because the Consent Order allows Mr. Welsh: (1) not to assign any of his rights under the Period 2 MFGA E & O Policies, (2) not to admit to any liability including negligence, and (3) not to cooperate in any way that might be construed to aid the Plaintiffs in

[1]The Consent Order originally entered by ECF #535 was also made by the debtor Holdings who did have standing and was joined by MFGA. Thus, Holdings was a necessary party required to expand the consent order, thus vacatur is warranted herein

their Class Action claim against MFGA (also referred to as the "P & P" claims), including a directive not to testify or produce documents pursuant to subpoena prior to allowing MFGA an opportunity to quash any subpoena, thus potentially placing Mr. Welsh in contempt of court.

20. If the Welsh Class Action Settlement Agreement is approved, Welsh may be burdened with a $35 Million Dollar Judgement entered against him personally. Because of the prior Welsh Bankruptcy Settlement Agreement, Mr. Welsh will not be able to assign this judgment to Plaintiffs. Thus, Mr. Welsh may have this burden on his shoulders for the next 20 years making him potentially personally liable for $35 million dollars.

21. The U.S. Specialty Policy offered up as the proceed to satisfy the Class Action who seeks to commence a direct action under N.Y. Insurance Law § 3420(a)(2) does not even cover Welsh's claim upon careful examination or my claim, since those two U.S. Speciality policies cover the wrong years 2011-2012, also known as Period 3 Policies. Because the correct years of coverage are reflected in the 2010-2011 E & O MFGA policies and do cover Welsh's claim, the MFGA E &O Period 2 policies are crucial and are relevant policies.

22. Furthermore, the Judgement against Welsh will compel plaintiffs to file a proof of claim against MFGI for $35 million dollars, since MFGI is ultimately vicariously liable for the debt of Mr. Welsh, thus burdening the MFGI debtor's estate for an additional $35 million dollars, at least. See Commodities Exchange Act 7 U.S.C. § 2(a)(1)(B). [2]

23. Notwithstanding the pending Class Action proposed settlement which asks for

[2] The same reasoning was successfully made in a Motion by U.S. Specialty in Doc #1688, paragraph 27 to case # 11-15059-mg, where U.S. Specialty acknowledged that covering individual insureds was a benefit to the Debtor who can avoid further liabily as a pass through for the insured's conduct.

an assignment of rights by Joseph Welsh for all **"relevant"** insurance policies presumptively including MFGA's E & O Period 2 policies, an order was entered into on April 19, 2013 by this Honorable Court that will effectively block the class action and my own potential settlement by allowing Mr. Welsh (1) **not to assign** his rights, and (2) not to admit to any liability including an admission of negligence and (3) not to cooperate freely with the Class Plaintiffs in a subsequent proceeding against MFGA under the MFGA Period 2 Policies. This stipulation also blocks me personally, and I am named in the Welsh Bankruptcy Settlement Agreement.

24. In consideration of approximately $1,000,000.00, $250,000.00 of which was going to Welsh's then-attorneys Kobre and Kim who simultaneously were actively negotiating this Class Action Proposed Settlement on behalf of Mr. Welsh; Mr. Welsh and Kobre and Kim agreed to both settlement agreements which clearly contradict each other. See Motion and Welsh Bankruptcy Settlement Stipulation annexed hereto as Exhibit 3.

25. In reviewing these two agreements, it is obvious after deciphering the ambiguous language in the Class Action Settlement Agreement that,even if Welsh even understood what he was doing, the result achieved is to block the Class Plaintiffs as well as my own potential recovery from the Insurance Carrier MFGA's regarding E& O policies on the Welsh Claim in a subsequent direct action suit. See New York Mckinney § 3420(a)(2).

26. This nullification of my right to commence a direct action against MFGA under New York Insurance Law § 3420(a)(2) seems remarkable, but it actually is the case, thus vacatur of this Court's prior order of 4/19/13 expanding the consent order to allow this unfair result is requested so that a fair and equitable settlement or verdict can be reached including payments made by MFGA's E & O policies. The other applicable policies appear to include the

D & O policies for U.S. Specialty and/or XL Specialty Trust for the years 2010-2011.

27. Both my claim as well as the P & P claims were validly noted as Pre-Petition Claims, recognized by MFGA under the Policy years, 2010-2011. According to the list of validly filed Pre-petition claims MFGA had notice of my claim as of on November 2, 2010 and notice of the P & P companion case prior to mine on June 26, 2010. See Exhibit 5 herein.

28. Noted on Exhibit 5 were 7 other valid pre-petition claims that were also recognized and would invoke coverage for the 2010-2011 Policy period. Thus for the years 2010-2011, there appears to be 9 claims in all that may add to the liabilities of the debtor's estate absent MFGA's E & O insurance coverage. Annexed hereto as Exhibit 5 is a copy of the list of 2010-2011 Pre-Petition Claims filed by MFGA in these Bankruptcy Proceedings.

A. Because the terms of the Welsh Class Action Settlement Agreement as well as my own potential settlement will be vitiated by the Welsh Bankruptcy Settlement Agreement, vacatur is In order.

29. The Honorable Judge William H. Pauley, III will have to consider whether $35 million dollars is fair consideration, and he will have to approve this Class Action settlement. It may be impossible to approve this $35 million dollar settlement when he learns that there is another Welsh Settlement Agreement that would substantially hinder and actually prohibit the Class from attempting to commence a direct action against MFGA to collect the proceeds of the E & O policy in the amount of $35 million dollars. Judge Pauley will also realize that the US Speciality Policy for 2011-2012 is inapplicable. Thus, absent the MFGA E & O policies, and the correct U.S. Specialty policy, there may be no insurance for the Class Plaintiffs at all or myself.

30. Indeed, the Class Action settlement and my own potential settlement relies on a valid assignment of rights. Ironically, Class Counsel erred in agreeing primarily to accept the

assignment under the U.S. Speciality Policy for the 2011-2012 Policy period since these policies are "claims made," and thus coverage is triggered in the calendar year where the claim was first interposed. Thus, with respect to both my claim as well as the Class Action claim, the applicable policy period of coverage is during the 2010-2011 policy year, since that is when the claims against Welsh were first interposed, upon information and belief.

33. Of course MFGA got this applicable policies right (2010-2011) when entering into the Welsh Bankruptcy Settlement Agreement. By the time Class Counsel corrects their error, it may be too late, because the correct and relevant U.S. Specialty Policies which are wasting polcies as well as the MFGA E & O wasting policy may not even be available to the Class or myself to commence a direct action suit against MFGA, unless this Consent Order is vacated herein.

34. It shocks ones conscience that apparently none of the counsel informed this Honorable Court of the parallel proceedings in the Southern District of New York in which Mr. Welsh was being asked for an assignment of his rights under all relevant policies which would certainly include the MFGA's E & O policies. These settlement negotiations should have been made known to this Court, because under equity, it would be entirely unfair to deprive investors of a chance to gain compensation from a viable policy of insurance as may now be the case, if this Consent order is not vacated.

35. Moreover, under well-established New York precedent, MFGA needs to step up to the plate in good faith and cover these claims; not to try to avoid them as they admittedly are doing when admitting that they are entering into the Welsh Settlement Agreement to avoid collateral estoppel effect and to make an agreement to inure to its benefit. Such an admission of

bad faith conduct to avoid proper claims that should be covered is unconscionable. See New Hampshire Ins. Co., Et. Al. V. MF Global, 29 Misc. 3d 1207(A), 958 N.Y.S.2d 309 (Sup. Ct. N.Y. Co. 2010)(MFGA's predecessor was required to cover claims due to wrongful conduct of MF Global Trader Evan Wooley.). See Scottsdale Insurance Co. v. Indian Harbor Insurance Co. 2014 WL 185597, *11 (S.D.N.Y. 2014)(Court holding: "In New York, insurers owe a duty to those they insure 'to act in 'good faith' when deciding whether to settle' a claim); Pinto v. Allstate 221 F.3d 394, 398 (2d Cir 2000)("Because an insurance company has exclusive control over a claim against its insured, once it assumes defense of the suit, it has a duty under New York law to act in "good faith" when deciding whether to settle such a claim, and it may be held liable for breach of that duty"); accord Acquista v. New York Life Insurance Co., 285 A.D.2d 73, 730 N.Y.S.2d 272 (1st Dep't 2001.)

36. Furthermore, in an abundance of caution, it would have been prudent for Kobre and Kim to perhaps recuse themselves from advising Welsh, since Kobre and Kim was also representing Welsh in the proposed Class Action Settlement Agreement.

37. In fact, one wonders if Mr. Welsh even understands that as things stand, he could be faced with a final judgment in the amount of $35 million dollars entered against him personally as part of the Class Action Settlement. If there is no insurance to cover this claim, under the present posture of these two proceedings, it appears that Welsh may have to satisfy that judgment. Now that he has promised in exchange for $750,000.00 not to assign his rights, he will have to live with that horrific judgment against him for $35,000,000.00.

38. Obviously, accepting a liability personally in the amount of $35,000,000.00 in exchange for $750,000.00 consideration, does not appear to be a very good result for Mr.

Welsh. If this Consent Order is vacated, then Welsh can freely assign his claim to Plaintiffs including myself, and Welsh will then be free and clear of any debts.

39. Basically, as it stands now, I do not see how approval over the Class Settlement can be achieved, absent vacatur of the expansion of the Consent Order of 4/19/13.

40. To highlight a few examples of the absurdity of these two conflicting agreements, the Welsh Bankruptcy Settlement Agreement and the Welsh Class Action Settlement Agreement, Mr. Welsh by counsel Kobre and Kim also stated on page 3 of the Stipulation and Agreement of Settlement of the Welsh Class Action Settlement Agreement:

> **"WHEREAS, Defendant Welsh has represented that to the best of his knowledge the information he provided concerning the Relevant Insurers as defined in Section 3(b)(ii) and related Policy (as defined in Section 3(b)(ii) and excess polices [sic] is complete and accurate."**

41. Clearly, this representation is incorrect and false. Actually, by omitting to give the information concerning the MFGA E & O policies which are relevant policies, in combination with failing to provide the correct 2010-2011 U.S. Specialty Policies renders the information provided by Welsh incomplete and inaccurate. In fact, it appears that the Class as well as myself is still in the dark as to how much applicable coverage is even left under these wasting policies.

42. Since the relevant insurance carrier MFGA is conspicuously missing from the list of relevant insurance carriers in Section 3(b)(ii) of the Stipulation and Agreement of Settlement, the above-representation is also misleading, since MFGA is a relevant Insurer. Thus, vacatur of the Expansion of the Consent Order is warranted under Federal Rule of Civil Procedure 60(b)(3).

43. Because many investor including myself have been so devastated by what

happened in these markets, the Consent Order should be vacated, so that investors such as myself can be compensated appropriately.

44. The next misrepresentation appears in the following decretal paragraph on page 3 of the Class Action Stipulation and Agreement of Settlement which erroneously states:

> **"WHEREAS, Defendant Welsh has represented that to the best of his knowledge any actions he took with respect to any E& O insurance policy or otherwise has not impaired his rights under the Policy and the related excess policies.**

45. Clearly, this above statement is also a blatant misrepresentation since, because Welsh has done the opposite, and has in fact taken action with respect to the MFGA E & O policy to impair his rights or the rights of his assignees under the Welsh Bankruptcy Settlement Agreement. Certainly, these representations should not have been made under Kobre and Kim's representation, and the Consent order dated April 19, 2013 needs to be vacated so that these representations and warranties can be deemed true and correct; and absent vacatur the Welsh Bankruptcy Settlement Agreement will prevent the veracity of these representations.

46. Next, in Section 3(b)ii of the Class Action Stipulation and Agreement of Settlement, it states:

> **"In further satisfaction of his financial obligation, Welsh hereby agrees to the fullest extent that New York Insurance law, the pertinent policies, and other applicable law permit, without impairing the Futures Plaintiffs and Futures Class enforcement rights in any action against U.S. Specialty, any excess carrier or <u>any Relevant Insurer</u> ("Insurance Enforcement Action"), to do the following: Welsh irrevocably assigns, transfers and otherwise conveys to the Futures Plaintiffs and the Futures Class the entirety of Welsh's claims, causes of action, rights, title interest in , and any other entitlement to any benefits of any nature whatsoever from, under, or by an reason of, or against the Relevant Insurers including in respect of any insurance policy (specifically including a certain Directors &**

> **Officers insurance policy (no. 14-MGU-11 A23947) with effective dates of May 31, 2011 through May 31, 2012 (the "Policy")) issued by U.S. Specialty Insurance Company ("U.S. Specialty") and/or other companies and all related excess policies including buy not limited to, any excess policy underwritten by. . . .**"[Emphasis Added]

47. Now although MFGA is not specifically named as an insurance carrier in this decretal paragraph 3(b)(ii), clearly MFGA falls under the category of a relevant insurance carriers, since the MFGA Period 2 policy is clearly relevant to the Plaintiff's satisfaction including my own.

48. Thus, the-above portion of the Welsh Class Action Settlement Agreement is also misleading, since MFGA as a relevant insurance carrier is missing from this decretal paragraph and the effect of the Welsh Bankruptcy Settlement Agreement may nullify any attempt by myself or the Class to bring a direct action against MFGA.

49. In addition, the admission of negligence in Section 3(b)(i) of the Welsh Class Action Settlement Agreement is nullified by the Fifth decretal paragraph in the Welsh Bankruptcy Settlement Agreement which states in pertinent part:**"WHEREAS, Welsh denies any and all liability for the P & P claim**. .. .". Certainly, his subsequent admission of negligence may be considered a nullity if the expansion of the Consent order is not vacated based on these constant misrepresentations and machinations.

49. Section 3(b)(iv) of the Class Action Stipulation and Settlement Agreement is also a nullity and inaccurate in light of Mr. Welsh promise not to cooperate in any way with any plaintiffs in the Welsh Bankruptcy settlement Agreement paragraph 2. On the one hand, Welsh promises to provide Class Counsel with all correspondences of the relevant insurers while on the other hand he may not provide such correspondence absent MFGA's approval.

50. Thus, again, the binding provisions of these two agreements are contradictory. In a subsequent direct action by myself or anyone else, MFGA will undeniably attempt to admit into evidence this Consent Order 4/19/13 to block my efforts to conduct a direct against against it. Therefore, absent vacatur of the Consent Order allowing Welsh to enter into this disingenuous Welsh Bankruptcy Settlement Agreement , there may be no chance for me to settle my claim that may seek an assignment of rights which is standard under New York State Law.

51. Thus, because the Welsh Bankruptcy Settlement Agreement completely negates, contradicts and renders a nullity the promises made by Welsh in the"Welsh Class Action Settlement Agreement, and any potential settlement I may also wish to make, the Welsh Bankruptcy Settlement Agreement, which was only approved by the expansion of the Consent Order on 4/19/2013 should be to be vacated.

52. Because this Court appears to have had no knowledge of the pending proposed Class Action Settlement regarding Welsh that was being negotiated contemporaneously with the Welsh Bankruptcy Settlement Agreement, there was certainly a lack of candor with this Honorable Court and thus the expansion of the Consent Order was procured inappropriately in violation of Federal Rule of Civil Procedure Rule 60(b)(3) requiring vacatur herein.

53. Once this Consent Order of 4/19/13 is vacated, Welsh will be free to assign his rights under the MFGA E & O policies so that plaintiffs including myself can commence a direct action against MFGA under New York State Insurance Law § 3420(a)(2).

54. As matter of Public Policy, the relevant insurance proceeds should not be pushed under the carpet in violation of New York's good faith requirement, and it should be made available to all insureds and claimants who fit within the policy terms.

Exhibit 1

Hearing Date and Time: April 18, 2013 at 10:00 AM
Response Deadline: April 11, 2012 at 4:00 PM

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:

Chapter 11

MF GLOBAL HOLDINGS LTD., et al.,

Debtors. Case No. 11-15059 (MG)

(Jointly Administered)

In re:

MF GLOBAL INC.,

Debtor. Case No. 11-2790 (MG) SIPA

MOTION FOR AN ORDER AMENDING AND EXPANDING THE CONSENT ORDER RELATING TO CERTAIN ERRORS AND OMISSIONS INSURANCE POLICIES

MFG Assurance Company Limited ("**Assurance**"), files this motion ("**Motion**") in the above captioned cases for MF Global Holdings, Ltd. ("**Holdings**") and MF Global Inc. ("**MFGI**" and together with Holdings, "**Debtors**") and respectfully represents:

Preliminary Statement

1) Prior to the commencement of these cases, Assurance issued certain professional liability insurance policies (a/k/a errors and omissions coverage) governed by New York law to Holdings for the policy years May 31, 2009 to May 31, 2010 ("**Year One Policies**"); May 31, 2010 to May 31, 2011 ("**Year Two Policies**"); and May 31, 2011 to May 31, 2012 ("**Year Three Policies**",

and together with the Year One Policies and the Year Two Policies, the "**Policies**").[1] On March 7, 2012, the Court issued an order ("**Consent Order**") [ECF No. 535[2] – attached hereto as Exhibit A for easy reference] that authorized, *inter alia*, Assurance's payment and reimbursement of Defense Costs[3] pursuant to the primary policy of the Year Two Policies ("**Year Two Primary Policy**" – attached in Exhibit A to the Consent Order) for those claims indicated in Exhibit B to the Consent Order. By its April 25, 2012 Order Lifting Automatic Stay To Permit Payments Of Defense Costs Under Certain Insurance Policies (the "**Lifting Order**") [ECF No. 652], the Court extended the Consent Order to MFGI's delinquency proceeding. The Year Two Primary Policy is unrelated to the claims brought by those persons alleging damages as a result of the events surrounding the financial demise that led to delinquency proceedings for certain of the MF Global companies.

2) As explained more fully below, by this Motion, Assurance seeks an amendment and expansion of the Consent Order so that it covers (i) a proposed settlement agreement that would require Assurance to make a payment other than Defense Costs on the Year Two Primary Policy and (ii) Defense Costs payable under the Year Two Primary Policy arising in connection with two claims that had not been listed previously in Exhibit B to the Consent Order.

3) Confirming Assurance's ability to make a settlement payment on behalf of an Individual Insured in the instant matter is in the best interests of the Debtors' estates and creditors because it will (i) preserve policy limits that will be available to protect other insureds such as the Debtors; (ii) reduce the potential for a collateral estoppel effect on the Debtors in connection with the P&P Claims (defined below); and (iii) provide specific releases that inure to the benefit of the Debtors. Moreover, validating that Assurance is authorized to fund the settlement payments will also reduce the potential for indemnification claims that an Individual Insured may seek to assert against the Debtors.

4) Expanding or amending the Consent Order to include the outstanding Defense Costs for the two claims described below will be consistent with the original purpose of the Consent Order

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[1] Copies of the Policies have been provided to the Court previously [ECF No. 519]. For the purposes of this Motion, the Policies are substantially similar to the primary policies attached to the Consent Order.
[2] All ECF references are to the Holdings docket unless otherwise noted.
[3] Capitalized terms not defined herein shall have the meanings ascribed to them in the Year Two Primary Policy.

and will correct an inadvertent omission.

5) Assurance submits that granting the relief requested herein is in the best interest of the Debtors' estates and their respective creditors, and is consistent with title 11 of the United States Bankruptcy Code (the "**Bankruptcy Code**") to the extent applicable.

Jurisdiction

6) The Court has jurisdiction over this Motion pursuant to the Consent Order, in which the Court retained jurisdiction with respect to all matters arising from or related to its implementation.

Background

7) Assurance is a wholly owned subsidiary of Holdings and a Bermuda domiciled insurance company managed by its Board of Directors. The Policies consist of one primary policy and additional following excess policies for each policy year that provide coverage for Holdings, its Subsidiaries, and Individual Insureds. Assurance fully reinsured the excess Policies. The Policies are "claims made" policies, such that Assurance is obligated to pay losses in the policy year in which a claim was first made and reported or within a prescribed reporting period following termination of a Policy. A list of the Policies and correct copies of the Policies are annexed as Exhibit B to the Declaration of John Oliver Heyliger ("**Declaration**") [ECF No. 519].

8) Following commencement of these cases, US Specialty Insurance Company ("**Specialty**" and together with Assurance, the "**Insurers**"), an insurer providing directors and officers insurance to Holdings and related entities, and Assurance sought relief from this Court in connection with the use of their respective policies (the "**Applications**").

9) In response to the Applications, certain interested parties ("**Objectors**") in these cases filed objections ("**Objections**") [ECF Nos. 416, 417, 419 and 422], which asserted generally that the proceeds of the Insurers' policies should not be used to defend parties the Objectors believed were responsible for deficiencies in MFGI's customer accounts and for the Debtors becoming insolvent. At a hearing on February 9, 2012 to consider the Applications and the Objections, the Court set a briefing schedule and a hearing date.

10) At the February 9, 2012 hearing, Assurance advised the Court that there were Defense Cost obligations in connection with the Year One Policies and Year Two Policies that were not linked to the Objectors' claims that were related of the Year Three Policies. The Court invited the Objectors, the Trustee in the Holdings proceeding and Assurance to seek agreement on a proposed order to address such immediate Defense Cost needs, which led to the Court issuing the Consent Order.

11) The Consent Order also provides that the Court retains jurisdiction with respect to all matters arising from or related to its implementation, including, without limitation, whether to amend or expand the Consent Order to cover payment of Loss in respect of any Claim under the Year Two Primary Policy.

The Welsh Claim

12) Included in the Claims listed in Exhibit B to the Consent Order are the Platinum and Palladium Commodities Litigation and the Susan Levy claims, both of which relate to the Year Two Policies. Springing out of the same alleged events are claims from the CME Group's Market Regulation Department's Enforcement Division and the U.S. Commodity Futures Trading Commission (all such claims taken together, "**P&P Claims**").

13) The P&P Claims arise out of allegations that the defendants engaged in improper practices intended to manipulate the trading market in platinum and palladium futures. As a result, a host of claims, including multiple putative class action complaints, were filed against a group of defendants that included MFGI and Joseph Welsh ("**Welsh**"), who is a person formerly associated with MFGI.

14) The P&P Claims against MFGI are stayed pursuant to the automatic relief provided in connection with its delinquency proceeding before the Court. The P&P Claims against Welsh have continued among the claims brought against the remaining defendants other than MFGI.

15) Due to the highly complex nature of the P&P Claims, the related litigation and regulatory initiatives have required, and would continue to require, significant efforts on the part of defense counsel. Should such efforts fail, the resulting damages could be measured in millions of

dollars. See Third Consolidated Amended Class Action Complaint in In Re: Platinum and Palladium Commodities Litigation, No. 10 Civ. 3617, USDC, So Dist of NY, Document 80. See also the CFTC Enforcement Action: In re Moore Capital Management, LP et al., CFTC Docket No. 10-09, in which the CFTC levied a $25 million civil monetary penalty, as well as certain other restrictions affecting market conduct.

16) Assurance had been paying Welsh's Defense Costs under the Year Two Policies, but in its recent course of reviewing the P&P Claims against Welsh, Assurance received information that led it to disclaim further coverage. Welsh disputes such coverage disclaimer and denies any and all liability for the P&P Claims.

17) Through a full negotiation of the disclaimer, Assurance and Welsh have reached an agreement, attached hereto as Exhibit B, that will resolve any rights Welsh may have under the Policies in respect of the P&P Claims (the "**Settlement Agreement**"). The significant terms of the Settlement Agreement are:

a. Assurance will pay Welsh $750,000 and will satisfy outstanding Defense Costs amounting to $255,464.96 (together, the "**Consideration**");

b. Welsh shall not assign to any party any rights he might have under the Policies in respect of the P&P Claims and any other claims arising out of, resulting from or relating to the events at issue in the P&P Claims;

c. Welsh shall take no action, directly or indirectly, in any way assisting, facilitating, subsidizing or funding the prosecution of any claim currently pending, or that could be brought, in the P&P Claims against MFGA or any person or entity insured under the Policies;

d. Welsh will provide Assurance a full release in respect of the P&P Claims;

e. Welsh will release MFGI and Holdings, and their respective subsidiaries, affiliates, officers and directors, from any claims for contribution and/or indemnity that Welsh might have arising out of the P&P Claims; and

f. the Agreement is subject to the approval of the Court that Assurance may pay

the Consideration in furtherance of the Agreement.

18) Assurance believes it would be in the best interests of all interested parties for the Court to amend and expand the Consent Order to provide for Assurance's payment of the Consideration.

The Historical Defense Costs

19) As noted above, the purpose of the Consent Order was to permit payment of Defense Costs in the policy years prior to the policy year that related to the Objections. Nevertheless, the Objectors required a listing of specific claims permitted under the Consent Order, to which Assurance agreed in order to reach an expedient resolution to a pressing issue. Due to an oversight on its part, Assurance did not include in the Claims listed in Exhibit B of the Consent Order two historical Claims having outstanding invoices.

20) The Hecht Claim had been settled and closed, but an invoice remains open in the amount of $37,808.34. The Selkin Claim was dismissed with prejudice and closed, but an invoice remains open in the amount of $6,876.00. Together, the open invoice amounts total $44,684.34 (the "**Historical Defense Costs**"). Assurance seeks to correct the oversight on Exhibit B of the Consent Order by asking the Court to amend or expand the Consent Order to cover payment of Defense Costs in respect of the Hecht and Selkin Claims under the Year Two Primary Policy.

Relief Requested

21) Assurance seeks amendment or expansion of the Consent Order by the entry of an order substantially in the proposed form attached as Exhibit C granting relief from the automatic stay provided for in section 362(a) of the Bankruptcy Code, to the extent that it applies, to allow Assurance to pay the Consideration in connection with the terms of the Settlement Agreement and to pay the Historical Defense Costs.

Notice

22) The Debtors have served notice of this Motion on (i) the U.S. Trustee; (ii) the attorneys for the Creditors' Committee; (iii) the Chapter 11 Trustee; (iv) the SIPA Trustee; (v); the

attorneys for the parties to the Consent Order; (vi) the attorneys for Welsh; and (vii) all other parties entitled to notice in accordance with the procedures set forth in the Court's order entered on December 12, 2011 governing case management and administrative procedures for these cases [ECF No. 256]. Assurance submits that no other or further notice need be provided.

Consent to this Motion and Reservation of Rights

23) Assurance also contacted counsel for each of the parties that participated in the Consent Order, as well as counsel for the SIPA Trustee, to discuss any objection they would have to the requested relief and whether they would consent thereto. Each of the counsel to the parties that participated in the Consent Order has indicated that it will have no objection to the requested relief, provided that nothing it this Motion or in any relief granted in connection therewith shall be used or construed as limiting any rights the consenting parties or Assurance may have in connection with the Court's April 10, 2012 Memorandum Opinion Lifting Automatic Stay To Permit Payments Of Defense Costs Under Certain Insurance Policies [ECF No. 619], the related Lifting Order, or any appeal thereof. Counsel for the SIPA Trustee noted that it was not a party to the Consent Order and took no position on the relief requested.

24) In making this Motion, Assurance reserves all of its rights under the Policies. In addition, Assurance is not seeking a determination of its obligation to Insureds to pay any amounts under the Year Two Primary Policy. Rather, Assurance seeks only the entry of an order amending and expanding the Consent Order, to the extent necessary, for Assurance to make payment of the Consideration and to pay Defense Costs on the Hecht claim and the Selkin claim.

No Prior Request

25) No prior request for the relief sought herein has been made to this or any other court.

WHEREFORE Assurance respectfully requests that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

Dated: March 22, 2013
New York, New York

/s/ Stephen Doody
Stephen Doody
ALLEN & OVERY LLP
1221 Avenue of the Americas
New York, New York 10020
Telephone: (212) 610-6300
Stephen.Doody@AllenOvery.com
Attorneys for MFG Assurance Company Limited

Exhibit 2

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
MF Global Holdings Ltd., *et al.*,	:	Case No. 11-15059 (MG)
Debtors.	:	(Jointly Administered)

In re	:	SIPA
MF Global Inc.,	:	Case No. 11-2790 (MG)
Debtor.	:	

ORDER AMENDING AND EXPANDING CONSENT ORDER

WHEREAS, MFG Assurance Company Limited ("**Assurance**") issued certain professional liability insurance policies for three separate policy years covering MF Global Holdings, Ltd. ("**Holdings**") and MF Global Inc. ("**MFGI**" and together with Holdings, the "**Debtors**")

WHEREAS, this Court previously issued an order ("**Consent Order**") [ECF No. 535] that authorized, *inter alia*, Assurance's payment and reimbursement of Defense Costs[1] pursuant to the primary policy for the 2010-11 policy year attached to the Consent Order ("**Year Two Primary Policy**") for those claims indicated in Exhibit B to the Consent Order.

WHEREAS, there is an agreed settlement in respect of a Claim from Joseph Welsh on the Year Two Primary Policy (the "**Welsh Settlement**") that is subject to this Court's approval, to the extent necessary, of a payment other than Defense Costs.

WHEREAS, there are outstanding Defense Costs payable pursuant to the Year Two Primary Policy on claims known as the Hecht and Selkin claims (the "**Excluded Claims**") that were not

[1] Capitalized terms not defined herein shall have the meanings ascribed to them in the primary policy for the 2010-11 policy year attached to the Consent Order.

authorized for payment by this Court by inclusion in the original schedule to the Consent Order.

WHEREAS, Assurance has brought a Motion For An Order Amending And Expanding The Consent Order Relating To Certain Errors And Omissions Insurance Policies (the **"Motion"**) seeking relief from the automatic stay provided for in section 362(a) of the Bankruptcy Code in these cases, to the extent that it applies, to allow Assurance to pay from the Year Two Primary Policy (a) the settlement funds necessary to consummate the Welsh Settlement, and (b) the outstanding Defense Costs on the Excluded Claims.

WHEREAS, the parties to the Consent Order have agreed that Assurance should be allowed to issue payments to consummate the Welsh Settlement and to pay the outstanding Defense Costs on the Excluded Claims.

NOW, therefore, upon consideration of the Motion; and upon the hearing on April 18, 2013; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is hereby:

ORDERED that the Consent Order is amended and expanded only to the extent necessary so that Assurance may pay from the Year Two Primary Policy (a) the settlement funds necessary to consummate the Welsh Settlement, and (b) the outstanding Defense Costs on the Excluded Claims; and it is further

ORDERED that nothing in this Order shall constitute: (1) any limitation of any rights the consenting parties or Assurance may have in connection with this Court's April 10, 2012 Memorandum Opinion Lifting Automatic Stay To Permit Payments Of Defense Costs Under Certain Insurance Policies [ECF No. 619], the related April 25, 2012 Order Lifting Automatic Stay To Permit Payments Of Defense Costs Under Certain Insurance Policies [ECF No. 652], or any appeal thereof; (2) a waiver, modification or limitation of any party's reservation of all of its rights, remedies and defenses under the Year Two Primary Policy; (2) a waiver, modification or limitation of any of the terms or conditions of the Year Two Primary Policy; (3) a finding that sums are due and owing, or in

what amount, under the Year Two Primary Policy; or (4) an admission or legal position upon which this Order would serve as precedent with respect to the Court's determination in respect of any other matter relating to the Year Two Primary Policy; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order, including, without limitation, whether to further amend or expand this Order to cover payment of losses under any of the policies issued by Assurance for the 2009-10 or 2010-11 policy years.

Dated: New York, New York
April 19, 2013

/s/Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge

Exhibit 3

Execution Version

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (**Release**) is entered on this [ ] day of December 2012, by and between Joseph Welsh III ("**Welsh**") and MFG Assurance Company Limited, (**MFGA**, and together with Welsh, the **Parties**).

WHEREAS, Welsh was or is threatened to be named, along with others, in claims from certain class action plaintiffs, Susan Levy, the CME Group's Market Regulation Department's Enforcement Division and the U.S. Commodity Futures Trading Commission that allege improper practices intended to manipulate the trading market in palladium and platinum futures (together, **P&P Claims**);

WHEREAS, MFGA issued certain primary and excess professional liability policies (**Policies**) for the one year period commencing May 31, 2010 (**Policy Period**) that provide $70M in limits including a $25,000 self-insured retention, and Welsh seeks coverage as an additional insured under the Policies in respect of the P&P Claims;

WHEREAS, MFGA denies any and all liability to Welsh in respect of the P&P Claims and has disclaimed coverage to Welsh on the basis of improper reporting and because the P&P Claims did not arise during the Policy Period;

WHEREAS, Welsh denies any and all liability for the P&P Claims, disputes MFGA's position and asserts that MFGA has received proper notice of the P&P Claims; and

WHEREAS, the Parties wish to have a full and final resolution of all of their respective rights and obligations under the Policies in respect of the P&P Claims and any other claims arising out of, resulting from or relating to the events at issue in the P&P Claims, whether such other claims exist currently or arise in the future, including without limitation any amounts incurred by Kobre & Kim LLP (**K&K**) in connection with the P&P Claims.

NOW, THEREFORE, in consideration of the above recitals, and the covenants and promises set forth herein, the Parties agree as follows:

1. Payment. MFGA agrees (i) within thirty days of this Release becoming final pursuant to the terms herein, including without limitation section 13, to pay to K&K on Welsh's behalf the sum of $750,000 (**Consideration**) and (ii) within thirty days of this Release becoming final to satisfy certain fees of K&K in respect of defense costs pertaining to (a) the P&P Claims incurred up to and including July 31, 2012 and (b) the mediation in respect of the P&P Claims conducted on August 27, 2012, which, taken together, total $255,464.96.

2. Assignment and Cooperation. Welsh agrees (i) not to assign, or seek to assign, any rights he might have under the Policies in respect of the P&P Claims and any other claims arising out of, resulting from or relating to the events at issue in the P&P Claims, and (ii) to take no action, directly or indirectly, in any way assisting, facilitating, subsidizing or funding the prosecution of any claim currently, or that could be brought, in the P&P Claims against MFGA or any person or entity insured under the Policies. For the avoidance of doubt, it shall not be a violation of this

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Release for Welsh to produce any documents, information and/or testimony pursuant to any subpoena or court order or requests from any regulatory agency, administrative agency or similar process, provided that Welsh provides MFGA reasonable prior written notice and an opportunity to contest such subpoena, court order or request.

3. Releases.

(a) Upon receipt of the Consideration, Welsh and his heirs, predecessors, successors assigns, agents and representatives, including without limitation K&K **(Releasing Parties)**, hereby RELEASE, ACQUIT and FOREVER DISCHARGE MFGA of and from any and all claims, demands, damages, actions, causes of action, debts, costs, loss of services, expenses, compensation, rights, duties, obligations, cross-claims, counterclaims, third party actions, arbitration or mediation demands, liabilities or controversies of any kind whatsoever, whether known or unknown, latent, patent, non-existent at the present time and that may arise in the future or are unanticipated at this time that a Releasing Party, have had, now have, or may have against MFGA arising out of, resulting from, or in any way related to the P&P Claims or the events at issue in the P&P Claims, which shall include, but not be limited to, any demand for indemnification, contribution, reimbursement or recoupment.

(b) The Releasing Parties further agree to release MF Global, Inc. and MF Global Holdings Ltd., and their respective subsidiaries, affiliates, officers and directors, from any claims for contribution and/or indemnity that the Releasing Parties might have arising out of, resulting from, or in any way related to the P&P Claims or the events at issue in the P&P Claims.

(c) It is UNDERSTOOD and AGREED that the above paragraphs (a) and (b) constitute a FULL and FINAL RELEASE of any and all claims asserted, to be asserted, or which could have been asserted by the Releasing Parties arising out of, resulting from, or in any way related to the P&P Claims or the events at issue in the P&P Claims.

(d) The Releasing Parties fully understand that the facts presently known to them may be found to be different. This Release, and the terms and conditions contained herein, shall be effective in all respects and shall not be subject to termination or rescission because of any such difference in facts.

(e) With respect to any and all claims released in this section 3, the Releasing Parties waive the provisions, rights and benefits of California Civil Code § 1542 (to the extent it applies herein), which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

(f) Nothing in this section 3 shall prohibit a Party from bringing an action to enforce the terms of this Release.

4. Estoppel And Indemnity. This Release is a final, complete, and absolute bar to any and

all suits which may hereafter be asserted, pending, filed or prosecuted related to, or concerning the P&P Claim. In the event that a Releasing Party causes to plead any action or suit against MFGA regarding the claims released herein, the pleading Releasing Party agrees to fully indemnify MFGA for any and all costs, including attorneys' fees, of defending said action or suit.

5. No Admission Of Liability. This Release may not be construed or deemed to be an admission of liability or wrongdoing of any kind by any Party, such alleged liability being expressly denied.

6. Authority. The undersigned each represent that he/she has the power and authority to execute, deliver and perform his/her obligations under this Release.

7. Entire Agreement. The Parties to this Release acknowledge that this Release constitutes the entire agreement among the Parties, and that any other prior or contemporaneous oral or written agreements respecting its subject matter are merged with or into this Release and shall have no force or effect whatever. The Parties cannot alter or modify this Release except by an instrument in writing executed by all Parties.

8. Governing Law. This Release shall be construed in accordance with, and this Release and all matters arising out of or relating in any way whatsoever (whether in contract, tort or otherwise) to this Release shall be governed by, the law of the State of New York without regard to choice of law principles.

9. Waiver Of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS RELEASE OR THE PARTIES' OBLIGATIONS HEREUNDER.

10. Construction. This Release has been drafted and reviewed jointly by the Parties and their counsel, and no presumption of construction shall be applied in favor of or against any of the Parties.

11. Counterparts. This Release may be executed in one or more counterparts by facsimile or other written form of communication, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

12. Legal Counsel. Each of the undersigned represents that he/she has had an opportunity to have this Release reviewed by legal counsel of his/her choosing and that he/she has had a full opportunity to review the terms of this Release, fully understands its terms, and has willingly consented to the terms set forth herein.

13. Bankruptcy Court Approval Required.

(a) This Release shall not be effective unless the Bankruptcy Court for the Southern District of New York supervising the proceedings for MF Global Holdings Ltd. (Case No. 11-15059) and MF Global Inc. (Case No. 11-2790) (**Bankruptcy Court**) approves that MFGA may

pay the Consideration in furtherance of this Release. Such approval shall be indicated by an order filed on the Bankruptcy Court's electronic docket and exhaustion of the appeal period.

(b) Upon receipt of the fully executed version of this Release, MFGA will promptly make an application to the Bankruptcy Court for the necessary approval. The application will be made on at least 21 days' notice in advance of the next available monthly omnibus hearing date.

(c) In the event that the Bankruptcy Court declines to provide the necessary approval, whether as indicated by an order or upon a failure to provide an order within ninety (90) days of MFGA's application, this Release shall have no effect and the Parties shall be restored to their respective rights and obligations existing prior to execution of this Release.

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Execution Version

IN WITNESS WHEREOF, the parties have executed this Release as of the date written above.

Joseph Welsh III

_____

MFG Assurance Company Limited

By _____

Its _____

Agreed and Acknowledged

Kobre & Kim LLP

By _____

Its _____

Exhibit 4

Execution Copy

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Platinum And Palladium Commodities Litigation This Document Relates To: Platinum/Palladium Futures Action	MASTER FILE No. 10 Civ. 3617 (WHP)

STIPULATION AND AGREEMENT OF SETTLEMENT

THIS STIPULATION AND AGREEMENT OF SETTLEMENT (the "Settlement Agreement" or "Settlement") is made and entered into as of August 20, 2013, pursuant to Rule 23 of the Federal Rules of Civil Procedure. This Settlement Agreement is entered into on behalf of the Futures Plaintiffs (as defined in Section 1(r) hereof) and the Futures Class (as defined in Section 1(p) hereof), by and through the Futures Lead Counsel (as defined in Section 1(q) hereof), and on behalf of defendants Moore Capital Management, LP; Moore Capital Management, LLC; Moore Capital Advisors, LLC; Moore Advisors, Ltd.; Moore Macro Fund, LP; Moore Global Fixed Income Master Fund, LP; Christopher Pia; Louis Bacon; Eugene Burger (together the "Moore Defendants"); and Joseph Welsh ("Welsh" and together with the Moore Defendants, the "Settling Defendants"), by and through their respective counsel of record in this action.

WHEREAS, the Futures Plaintiffs made various allegations in the Fifth Consolidated Amended Class Action Complaint (the "Complaint") of alleged conduct that began in 2006, continued until at least May 21, 2008, and allegedly had impact on the market after May 21, 2008;

WHEREAS, the foregoing allegations included allegations that the Settling Defendants, non-settling defendant MF Global, Inc. and other co-conspirators, between at least October 17, 2007 and June 6, 2008, combined, conspired, and agreed to fix or manipulate the prices of New York Mercantile Exchange ("NYMEX") platinum futures contracts and NYMEX palladium futures contracts in violation of the Commodity Exchange Act ("CEA"), 7 U.S.C. §§ 1, *et seq.* and the Sherman Antitrust Act, 15 U.S.C. §1 *et seq.*;

WHEREAS, the Futures Plaintiffs further alleged that the foregoing caused false statements or misstatements of prices to be made and also alleged a separate negligence claim for negligent breach of duty, against Defendant Welsh;

WHEREAS, the Settling Defendants have denied each and every allegation of challenged conduct or omissions, disclaimed any wrongdoing or liability whatsoever, and have repeatedly asserted, and submitted evidentiary economic analyses which tend to show, that the maximum alleged class damages, if any, that could be allowed on these claims would be only a minute fraction of those asserted by the Futures Plaintiffs;

WHEREAS, extensive arm's-length, good faith settlement negotiations have taken place on and off over the course of sixteen months between counsel for the Futures Plaintiffs and Settling Defendants;

WHEREAS, such settlement negotiations included a settlement mediation under the direction of The Honorable Daniel Weinstein (Ret.), including all-day mediation sessions on July 27 and August 27, 2012;

WHEREAS, such mediation sessions did not conclude in a settlement, the parties thereafter resumed litigating, and then resumed their arm's-length negotiations through and including the date hereof;

WHEREAS, certain defendants successfully obtained the dismissal of the Futures Plaintiffs' earlier complaint without prejudice, and the Settling Defendants were prepared to file a motion to dismiss with prejudice challenging the entirety of the current Complaint prior to the Parties entering this Settlement Agreement;

WHEREAS, Futures Lead Counsel have had an opportunity to conduct factual research and an extensive review of the more than 250,000 pages of documents produced by the Settling Defendants and defendant MF Global, Inc. both during discovery and in the course of settlement negotiations, Futures Lead Counsel further reviewed records and data (including deposition transcripts) produced by third parties such as the NYMEX, and the Commodity Futures Trading Commission ("CFTC"), received and reviewed expert analysis, conducted a thorough legal analysis, and otherwise have become well-informed before agreeing to the Settlement;

WHEREAS, Defendant Welsh has represented that to the best of his knowledge the information he provided concerning the Relevant Insurers (as defined in Section 3(b)(ii)) and related Policy (as defined in Section 3(b)(ii)) and excess polices is complete and accurate;

WHEREAS, Defendant Welsh has represented that to the best of his knowledge any actions he took with respect to any E&O insurance policy or otherwise has not impaired his rights under the Policy and related excess polices;

WHERAS, Defendant Welsh has provided Futures Lead Counsel with information regarding his financial condition and represented that such information, which is confidential, is true and accurate;

WHEREAS, in the Futures Plaintiffs' informed judgment, Defendant Welsh does not have the financial ability to satisfy any significant judgment and, further, in the Futures Plaintiffs' informed judgment, Defendant Welsh would potentially face insolvency if he had to

defend this complex case through summary judgment or trial and/or if there was any significant judgment entered against him in this Action;

WHEREAS, Futures Lead Counsel consider the settlement set forth herein to be fair, reasonable, adequate and in the best interests of the Futures Plaintiffs and the members of the Futures Class, and have determined that it is in the best interests of the Futures Class to enter into this Settlement Agreement in order to avoid the risks and uncertainties of this complex litigation and to assure a benefit to the Futures Class, while maintaining the right to pursue claims against any Non-Settling Defendants (as defined in Section 1(v));

WHEREAS, Settling Defendants have decided, despite their denial of each and every one of the Futures Plaintiffs' allegations, their position that they are not liable for the claims asserted, and their position that alleged class damages, if any, would be allowed only in a minute fraction of those asserted by the Futures Plaintiffs, to enter into this Settlement Agreement to avoid the further expense, inconvenience and burden of this protracted litigation, the distraction and diversion of their personnel and resources, and the risks and expenses inherent in any complex litigation;

NOW THEREFORE, it is agreed by the undersigned, on behalf of the Futures Plaintiffs, the Futures Class, and Settling Defendants, without any admission or concession of liability or the validity of any allegation in the Complaint whatsoever, that the Futures Action and the Released Claims (as defined in Section 1(dd) hereof) be settled, compromised and dismissed on the merits and with prejudice as to the Settling Defendants (but not as to the Non-Settling Defendants), and without costs as to the Futures Plaintiffs or Settling Defendants, on the following terms and conditions, all as subject to the approval of the Court.

1. Terms Used In This Settlement Agreement

The words and terms used in this Settlement Agreement expressly defined below shall have the meaning ascribed to them.

(a) "Allowed Claim" shall mean a Proof of Claim that satisfies all of the following requirements: (i) it is timely submitted by a Person within the definition of the Futures Class in substantial conformity with the procedural and substantive requirements of this Settlement Agreement, the Settlement Administrator (as defined in Section 1(hh) hereof) and all applicable orders of the Court; (ii) it is validated by the Settlement Administrator and determined to establish that the Person submitting the claim has suffered Net Artificiality Paid and/or Net Losses in accordance with the Plan of Allocation (as defined in Section 1(aa) hereof) and (iii), if objected to, has not been invalidated by the Mediator (as defined in Section 1(s) hereof) .

(b) "Class Notice" shall mean collectively notice of the Settlement to the Futures Class in the form of the long form notice (substantially in the form of Exhibit A hereto), the publication notice (substantially in the form of Exhibit B hereto) and the settlement website, all to be provided, established and maintained pursuant to the Scheduling Order and in the manner and form approved by the Court and which is in compliance with Rule 23 of the Federal Rules of Civil Procedure.

(c) "Class Period" shall mean the period June 1, 2006 through April 29, 2010, inclusive.

(d) "Class Contracts" shall mean NYMEX platinum futures contracts and NYMEX palladium futures contracts traded between June 1, 2006 through April 29, 2010, inclusive.

(e) "Court" shall mean the United States District Court for the Southern District of New York.

(f) "Claiming Futures Class Members" shall mean Futures Class members with Allowed Claims.

(g) "Claims Bar Date" shall mean seventy-five (75) days after the Fairness Hearing.

(h) "Effective Date" shall mean the date when the Final Judgment (as defined in Section 1(n) hereof) becomes final as provided in Section 14 of this Settlement Agreement.

(i) "Escrow Account" shall mean the account to be established at Huntington National Bank to hold the $48,400,000.00 in payments by the Moore Defendants and any Welsh Consideration (as defined in Section 1(nn) below) that may be recovered, if any.

(j) "Escrow Agent" shall mean A.B. Data, Ltd. or any other Persons approved by the Court to act as escrow agent for the Settlement Fund pursuant to the terms of the Escrow Agreement.

(k) "Escrow Agreement" shall mean the agreement, substantially in the form of Exhibit C hereto, governing the Escrow Account. The Escrow Agreement shall be executed contemporaneously with the execution of this Settlement.

(l) "Exclusion Bar Date" shall mean the date thirty-five (35) days before Fairness Hearing.

(m) "Fairness Hearing" shall have the meaning set forth in the proposed Scheduling Order attached hereto as Exhibit D.

(n) "Final Judgment" shall mean a final judgment and order of dismissal substantially in the form of Exhibit E to this Settlement Agreement (or such other form that the parties may agree) which is to be entered by the Court finally approving the terms of this Settlement Agreement and dismissing the Futures Action with prejudice as to the Settling Defendants provided that the Futures Action will not be dismissed as to the Non-Settling Defendants.

(o) "Futures Action" shall mean the consolidated class action concerning the Futures Plaintiffs and the Futures Class pending in the United States District Court for the Southern District of New York captioned *In re: Platinum and Palladium Commodities Litig.* (Platinum/Palladium Futures Action), 10-cv-3617 (WHP) (S.D.N.Y.) provided that the Futures Action shall not be deemed to include (i) any claims solely asserted by the named plaintiffs or the proposed class in the Physical Action or (ii) any claims that are not in any way related to and do not arise in full or in part from the Settling Defendants' trading of Class Contracts.

(p) "Futures Class" shall be defined as: All Persons (as defined in Section 1(z) hereof) that purchased or sold a NYMEX platinum futures contract or a NYMEX palladium futures contract during the period from June 1, 2006 through April 29, 2010, inclusive. Excluded from the Futures Class are (i) the Settling Defendants, MF Global, Inc., any co-conspirators alleged in the Complaint or any subsequent amended complaint filed prior to the Exclusion Bar Date, Alan Craig Kleinstein, Dominick Frank Terrone, Richard Peter Trifoglio Sr., Frederick Charles Ferriola, Peter Michael Venus, Lawrence Frasca Favuzza, and John Anthony Sakulich and any NYMEX floor brokers or NYMEX floor traders who refuse to execute the certification in the Proof of Claim attesting that they were not co-conspirators, or aiders or abettors of the Settling Defendants or Non-Settling Defendants, and (ii) Opt Outs (as defined in Section 1(w) hereof).

(q) "Futures Lead Counsel" shall mean Lovell Stewart Halebian Jacobson LLP.

(r) "Futures Plaintiffs" shall mean Greg Galan and Richard White.

(s) "Mediator" shall mean Hon. Kathleen A. Roberts (Ret.).

(t) "MF Global, Inc." shall mean MF Global, Inc. and its insurers, employees, parents, subsidiaries, affiliates, or agents.

(u) "Net Settlement Fund" shall mean the Settlement Fund minus all reasonable and appropriate costs and expenses associated with Class Notice, all attorneys' fees, settlement administration expenses, taxes and all other expenses or charges as approved by the Court as required herein.

(v) "Non-Settling Defendants" shall mean defendant MF Global, Inc. and any other person or entity other than the Released Parties that may be named as a defendant in the Futures Action or any other action or proceeding asserting similar claims.

(w) "Opt Outs" shall mean all Persons within the definition of the Futures Class who have submitted Requests For Exclusion in substantial conformity with the procedural and substantive requirements of this Settlement Agreement, the Settlement Administrator and all applicable orders of the Court prior to the Exclusion Bar Date, and thereafter does not revoke such Request for Exclusion prior to entry of the Final Judgment.

(x) "Other Futures Plaintiffs' Counsel" shall mean the law firms of Lowey Dannenberg Cohen & Hart, P.C. and Edward Cochran, Esq.

(y) "Parties" shall mean the Futures Plaintiffs and the Settling Defendants, collectively.

(z) "Person" shall mean an individual, corporation, partnership, association, proprietorship, trust, governmental or quasi-governmental body or political subdivision or any agency or instrumentality thereof, or any other entity or organization.

(aa) "Plan of Allocation" shall mean the Futures Plaintiffs' proposed plan of allocation attached hereto as Exhibit F, or such alternative plan of allocation as may be ordered by the Court, provided however that the Settling Defendants dispute that the Plan of Allocation sets forth any legally or factually cognizable damages that any of the Settling Defendants would

be liable for, dispute that the Plan of Allocation or concepts contained therein would ever be admissible at trial in full or in part, and maintain their position that the maximum alleged damages, if any, would be only a minute fraction of that asserted by the Futures Plaintiffs.

(bb) "Proof of Claim" shall mean the form by which the Futures Class submits their claims, substantially in the form attached as Exhibit G hereto, or such alternative form as may be approved by the Court.

(cc) "Physical Action" shall mean the consolidated class action concerning the named physical plaintiffs and the putative physical class pending in the United States District Court for the Southern District of New York captioned *In re: Platinum and Palladium Commodities Litig.* (Platinum/Palladium Physical Action), 10-cv-3617 (WHP) (S.D.N.Y.), concerning the allegations relating to the named physical plaintiffs and putative physical class in the Complaint.

(dd) "Released Claims" shall mean those claims identified in Sections 6(a) and 6(b) of this Settlement Agreement.

(ee) "Released Parties" shall mean the Settling Defendants, each of their past, present or future parents, subsidiaries, divisions, affiliates, shareholders, general or limited partners, attorneys, spouses, insurers, beneficiaries, employees, officers, directors, legal and equitable owners, members, predecessors in interest, successors in interest, legal representatives, trustees, associates, heirs, executors, administrators and/or assigns and each and any of their respective shareholders, parents, subsidiaries, divisions, affiliates, shareholders, general or limited partners, assigns, attorneys, insurers, beneficiaries, employees, officers, directors, legal and equitable owners, members, predecessors in interest, successors in interest, legal representatives, alter egos, trustees, associates, heirs, executors, administrators and/or assigns.

In no event shall the Released Parties include MF Global, Inc., the Relevant Insurers (as defined in Section 3(b) below) or any NYMEX floor brokers or NYMEX floor traders who executed trades in NYMEX platinum futures contracts or NYMEX palladium futures contracts between October 17, 2007 and June 6, 2008. This Settlement is not intended to relieve U.S. Specialty Insurance Company or any of the other Relevant Insurers (defined in Section 3(b)(ii) below) of their obligations under the Policy (defined in Section 3(b)(ii) below) and/or the related excess policies underwritten by the Relevant Insurers.

(ff) "Request for Exclusion" shall mean the form by which Persons within the definition of the Futures Class may request exclusion therefrom, substantially in the form attached as Exhibit H hereto, or such alternative form as may be approved by the Court.

(gg) "Scheduling Order" shall mean the order that, *inter alia*, preliminarily approves this Settlement, schedules deadlines leading up to the Fairness Hearing and that makes provisions for the Class Notice. A copy of the proposed Scheduling Order is attached as Exhibit D hereto.

(hh) "Settlement Administrator" shall mean A.B. Data, Ltd. or any other Persons approved by the Court to perform the tasks necessary to provide notice of the Settlement to the Class and to otherwise administer the Settlement Fund.

(ii) "Settlement Agreement" or "Settlement" shall mean this Stipulation and Agreement of Settlement and all exhibits attached hereto, including any subsequent modification(s) to the Settlement or any exhibit made in conformity with the terms hereof.

(jj) "Settlement Fund" shall mean the $48,400,000.00 aggregate payment by the Moore Defendants and any Welsh Consideration (as defined in Section 1(oo) below) that may be recovered (if any) and all interest accrued thereon provided that in no event shall the

Settlement Fund include any funds or other consideration that may be recovered from MF Global, Inc. or any other Non-Settling Defendant.

(kk) "Settling Defendants" shall have the meaning provided in the first paragraph of this Settlement Agreement, provided that neither MF Global Inc. nor any other Non-Settling Defendant is a Settling Defendant.

(ll) "Supplemental Agreement" shall mean the Supplemental Agreement dated August 20, 2013 and entered on behalf of the Futures Plaintiffs, Futures Class and Moore Capital Management, LP.

(mm) "Taxes" shall mean any and all (i) federal, state and local taxes payable on interest or other income attributable to the Settlement Fund, including interest and penalties, and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including expenses of tax attorneys and accountants).

(nn) "Welsh Consideration" shall mean the consideration set forth in Section 3(b) below that may be recovered, if any.

2. The Futures Class

This Settlement is made on behalf of the Futures Class without prejudice to any objections, arguments and/or defenses of any party with respect to the Futures Class or Futures Action in the event that the Final Judgment is not obtained.

3. Settlement Consideration

(a) **Moore Defendants**. The Moore Defendants have agreed to pay and shall pay by wire transfer into the Escrow Account forty-eight million two hundred fifty thousand dollars ($48,250,000.00) to be made in two equal payments as follows. **First Payment**. Provided that the Escrow Agreement has been executed and delivered by all parties thereto, within seven (7) calendar days after the Scheduling Order is entered, the Moore Defendants shall pay by wire

transfer into the Escrow Account the sum of twenty-four million one hundred twenty-five thousand dollars ($24,125,000.00). **Second Payment**. No later than three (3) business days before the Fairness Hearing on final approval of the Settlement, the Moore Defendants shall pay by wire transfer into the Escrow Account the sum of twenty-four million one hundred twenty-five thousand dollars ($24,125,000.00). **Third Payment.** As separate and additional consideration to quiet the litigation, and further consideration for the reversion rights set forth in Section 12 below, the Moore Defendants shall pay by wire transfer into the Escrow Account the additional sum of one hundred and fifty thousand dollars ($150,000.00) within seven (7) calendar days after the Scheduling Order is entered. In consideration for the foregoing additional consideration, the Futures Plaintiffs, the Futures Class and Futures Lead Counsel have agreed that up to a maximum of the first $50,000 of any recovery from the Relevant Insurers (if any) with respect to the Welsh Consideration set forth below, will be refunded to the Moore Defendants, irrespective of whether grounds for reversion as set forth in Section 12 hereof apply.

(b) **Welsh**. Welsh has agreed to provide the following consideration:

(i) Welsh stipulates to his liability to pay the sum of thirty-five million dollars ($35,000,000) for the benefit of the Futures Class on the negligence claim as set forth in paragraph 15 of the Final Judgment attached as Exhibit E hereto. The Futures Plaintiffs and the Futures Class shall have the full enforcement rights on such liability judgment provided in footnote one (fn. 1) of paragraph 15 of the Final Judgment attached as Exhibit E hereto. This judgment shall be satisfied in full, shall cease to have any force or effect, and shall terminate when the Futures Plaintiffs' and Futures Class' claims against the Relevant Insurers have been finally resolved on the merits and all efforts to enforce any such judgment have been completed (the "Insurance Enforcement Date").

(ii) In further satisfaction of his financial obligation, Welsh hereby agrees to the fullest extent that New York insurance law, the pertinent policies, and other applicable law permit, without impairing the Futures Plaintiffs and Futures Class' enforcement rights in any action against U.S. Specialty, any excess carrier or any Relevant Insurer ("Insurance Enforcement Action"), to do the following: Welsh irrevocably assigns, transfers and otherwise conveys to the Futures Plaintiffs and the Futures Class the entirety of Welsh's claims, causes of action, rights, title, interest in, and any other entitlement to any benefits, of any nature whatsoever from, under, or by any reason of, or against the Relevant Insurers, including in respect of any insurance policy (specifically including a certain Directors & Officers insurance policy (No. 14-MGU-11-A23947) with effective dates of May 31, 2011 through May 31, 2012 (the "Policy")) issued by U.S. Specialty Insurance Company ("U.S. Specialty") and/or other companies and all related excess policies including, but not limited to, any excess policy underwritten by: XL Specialty; Axis Insurance Co., Ace American Insurance Co., Illinois National, Federal, Ace Westchester Specialty, New Hampshire Insurance, Ironshore Indemnity, Inc., Hartford Accident & Indemnity, St. Paul Mercy, Ironshore/Starr, AWAC, Axis Specialty Ltd., Catlin Ins. Co., Continental Casualty, Federal, Everest National Scottsdale Indemnity, New Hampshire Insurance, U.S. Specialty (together the "Relevant Insurers"). The Policy is attached hereto as Exhibit I. The consideration provided by Welsh in this Section 3(b) shall be referred to collectively as the "Welsh Consideration."

(iii) Futures Class and Futures Lead Counsel have sole discretion to settle, collect or otherwise seek to satisfy the $35,000,000 judgment and Welsh shall have no interest in or to the proceeds of any sums collected by Futures Class and Futures Lead Counsel by reason of

27. Notices

All notices under this Settlement Agreement shall be sent to each of the undersigned counsel or such other address as a party to this Settlement Agreement may designate in writing, from time to time, in accordance with this Settlement Agreement.

28. Execution by Counsel

Each counsel executing this Settlement Agreement on behalf of any Party hereto hereby warrants that he/she has full authority to do so.

29. Timing

If any deadline imposed herein falls on a non-business day, then the deadline is extended until the next business day.

30. Good Faith

No Futures Plaintiff, Futures Class member, or Settling Defendant shall assert in any forum that the Futures Action was brought by the Futures Plaintiffs or defended by Settling Defendants in bad faith, nor shall any of them assert any claim of any violation of Fed. R. Civ. P. 11 relating to the prosecution, defense, or settlement of the Futures Action.

[Signatures follow on next page]

Dated: August 20, 2013

By: _____
Christopher Lovell
clovell@lshllp.com
LOVELL STEWART HALEBIAN & JACOBSON LLP
61 Broadway, Suite 501
New York, New York 10006
Telephone: (212) 608-1900
Facsimile: (212) 719-4775

Counsel for Futures Plaintiffs & Futures Class

By: _____
David Zensky
dzensky@akingump.com
AKIN GUMP STRAUSS HAUER & FELD
One Bryant Park
New York, New York 10036
Telephone: (212)-872-1000
Facsimile: (212)-872-1002

Counsel for Defendants Moore Capital Management, LP;
Moore Capital Management, LLC;
Moore Capital Advisors, LLC;
Moore Advisors, Ltd.;
Moore Macro Fund, LP; and
Moore Global Fixed Income Master Fund, LP
Louis M. Bacon

By: _____
Jennifer Rochon
jrochon@kramerlevin.com
KRAMER LEVIN NAFTALIS & FRANKEL, LLP
1177 Avenue of the Americas
New York, New York 10036
Telephone: 212-715-9120
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Counsel for Defendant Christopher Pia

By: Marc Weinstein (JW)

Marc Weinstein
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HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004
Telephone: (212)-837-6000
Facsimile: (212)-299-6460

Counsel for Defendant Eugene Burger

By: _____

Andrew Lourie
andrew.lourie@kobrekim.com
KOBRE & KIM, LLP
1919 M Street, N.W., Suite 410
Washington, D.C. 20036
Telephone: (202)-664-1900
Facsimile: (202)-664-1927

Counsel for Defendant Joseph Welsh

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1919 M Street, N.W., Suite 410
Washington, D.C. 20036
Telephone: (202)-664-1900
Facsimile: (202)-664-1927

Counsel for Defendant Joseph Welsh

Exhibit 5

MFG Assurance Company Limited

Professional Liability Open Claims Bordereaux

As of February 29, 2012

Case Name	Date Discovered	Policy Year Reported	Name of Parties	Forum of Claim	Case Number
PRE-BANKRUPTCY INSURANCE CLAIMS:					
Gupta et al	June 9, 2009	May 31, 2009 to May 31, 2010	Lachhman D. Gupta, Manjula Gupta, and Poonam Gupta, Gokal Gupta, Astutica, Inc., vs. MF Global Inc., Tricia Morse a.k.a. Tricia O'Rourle, Palm Beach Future & Options, Inc.	Circuit Court of Cook County, Illinois County Department, Law Division	No. 2009L003645
Qimat R. Goyal	October 2, 2009	May 31, 2009 to May 31, 2010	Qimat R. Goyal v. MF Global Inc. f/k/a Man Financial Inc. and Joe Texido	Financial Industry Regulatory Authority (FINRA) - Dispute Resolution	09-03971
Mirador International LLC	November 13, 2009	May 31, 2009 to May 31, 2010	Mirador International LLC v. MF Global UK Limited	UK High Court	2009-Folio 995
Hansen et al	February 9, 2010	May 31, 2009 to May 31, 2010	Hansen et al v. CitiGroup Global Markets, Inc. and MF Global Inc.	FINRA Arbitration	09-01335
Sonson	June 22, 2010	May 31, 2010 to May 31, 2011	Charles Sonson v. Lind-Waldock a division of MF Global Inc.	United States District Court for the Northern District of Illinois Eastern Division	No. 1:10-cv-03870
In Re: Platinum and Palladium Commodities Litigation	June 26, 2010	May 31, 2010 to May 31, 2011	Futures Plaintiff Gregory Galan; Futures Plaintiff Richard White; Plaintiff F.W. DeVito, Inc. Retirement Plan Trust; Plaintiffs Frederick W. and Mary T. DeVito; Plaintiff David W. DeVito; Plaintiff Russell W. Andrews v. Moore Capital Management, LP; Moore Capital Management, LLC; Moore Capital Advisors, LLC; Moore Advisors, Ltd.; Christopher Pia; Moore Macro Fund, LP; Moore Global Fixed Income Master Fund, LP; Louis Bacon; Eugene Burger; MF Global Inc.; Joseph Welsh	United States District Court Southern District of New York	No. 10 CIV 3617 (WHP)
Levy	November 2, 2010	May 31, 2010 to May 31, 2011	Susan Levy v. Krista Mancini, Frank Rodriguez, Greg Perlin, James Gombas, Man Financial Inc., Joseph Welsh, MF Global Inc., Lind Waldock Inc., Moore Capital Management, LLC, Moore Capital Management, LP, Moore Capital Advisors, LLC, Moore Advisors, Ltd., Christopher Pia, et al	National Futures Association Arbitration Department	10-ARB-71

MFG Assurance Company Limited

Professional Liability Open Claims Bordereaux

As of February 29, 2012

Case Name	Date Discovered	Policy Year Reported	Name of Parties	Forum of Claim	Case Number
Bijan Dokhanian, et al v. Payam Pedram et al	December 30, 2010	May 31, 2010 to May 31, 2011	Dokhanian, et al, v. MF Global Inc., Payam Pedram, Steven Paolillo, Jacques DeVore, Ochin Avanes, Ascendant Asset Advisors, Inc., Ascendant Asset Advisors LLC, Ascendant Alternative Investments, Inc., Pacific Traders Group, Inc., Interactive Brokers, LLC.	Superior Court of the State of California County of LA	LA-SC109833
Susan M. Elliot v. Jay De Bradley et al.	February 7, 2011	May 31, 2010 to May 31, 2011	Susan M. Elliott v. MF Global Inc.; Fox Investment, a division of MF Global Inc.; Jay de Bradley; Glenn Moore; Farr Investments LLC; and Malik Sievers	United States Commodity Futures Trading Commisssion	Reparations Proceeding 11-R004
Anthony Calascibetta, Liquidating Trustee	February 22, 2011	May 31, 2010 to May 31, 2011	In Re: U.S. Mortgage Corp. and CU National Mortgage, LLC, Debtors. Anthony R. Calascibetta, Liquidating Trustee v. MF Global f/k/a Man Financial	United States Bankruptcy Court, District of New Jersey	Chapter 11 Case No.: 09-14301 (RG)
Reginald Roberts	February 23, 2011	May 31, 2010 to May 31, 2011	Reginald Roberts vs. MF Global Inc. and Samuel Darden	National Futures Association Arbitration Department	11-ARB-10
ED&F Man Commodity Advisors Ltd.	March 11, 2011	May 21, 2010 to May 31, 2011	ED&F Man Commodity Advisors Ltd. (MCA) v. MF Global UK Limited	Letter Before Action	N/A
Kevin Cooke	May 3, 2011	May 31, 2010 to May 31, 2011	Kevin Cooke as beneficiary of Entrust FBO Kevin Cook DIR E/S Tr #0226245 v. Global Asset Advisors, LLC, Todd Wood and MF Global Inc.	National Futures Association Arbitration Department	11-ARB-19
B S Attwall & Co Limited et al	June 14, 2011	May 31, 2011 to May 31, 2012	B S Attwall & Co Limited, Rachpal Singh Attwal, Amarjit Singh Attwal v. MF Global UK Limited trading as GNI Touch, PCE Investors Limited	High Court of Justice Queen's Bench Division Leicester District Registry	Claim No. 1LE90268
Krasner et al v. Rahfco Funds et al	June 23, 2011	May 31, 2011 to May 31, 2012	Krasner et al. v. Rahfco Funds, Man Financial Inc., et al.	US District Court Southern District of New York	11-CIV-4992
The Steven Swarzman 2009 Trust	July 19, 2011	May 31, 2011 to May 31, 2012	The Steven Swarzman 2009 Trust v. MF Global Inc. d/b/a Lind Waldock	National Futures Association Arbitration Department	11-ARB-37
Regulatory Investigation	July 29, 2011	May 31, 2011 to May 31, 2012	N/A	N/A	N/A
POST-BANKRUPTCY INSURANCE CLAIMS:					
Various requests to *Individual Insureds* from the US District Court for the Northern District of Illinois, US District Court for the Southern District of New York, Commodity Futures Trading Commission (CFTC), Securities and Exchange Commission (SEC), SIPA Trustee, House Financial Services Committee, House Agriculture Committee and Senate Agriculture Committee	November 1, 2011	May 31, 2011 to May 31, 2012	Various *Individual Insureds*	Various	N/A
Butler	November 4, 2011	May 31, 2011 to May 31, 2012	Thomas A. Butler, Jr. v. Jon S. Corzine and Henri Steenkamp	Supreme Court of the State of New York County of New York	Index No. 653074/2011

Exhibit 6

LVL Claims Services, LLC

30 Broad Street, 28th Floor
New York, New York 10004

Main: 212.359.3950
Fax: 212.513.7589
www.lvlclaims.com

Michael P. Fried
Assistant Vice President

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
August 1, 2012
Susan Levy, Esq.
165 W. 66th Street
New York, New York 10023

Insured: MF Global Holdings Ltd (MFG)
Carrier: MFG Assurance Company Limited (MFGA)
Policy No: 1-18001-00-10
Policy Term: May 31, 2010-2011
Matter: In re Palladium & Platinum litigation/CFTC/ Levy
LVL Claim No.: MFGA000002

Dear Ms. Levy:

LVL Claims Services (LVL) has been retained by MFG Assurance Company Limited to serve as claims administrator on its behalf.

Please accept this letter as a courtesy response to your purported notice provided to us under the policy of insurance dated 29 May 2012.

For reasons that are between us and our insured, Joseph Welsh, we, as a courtesy, regret to inform you that there is no coverage for this claim.

If you would like detail with respect to this coverage analysis, you will need to contact Mr. Welsh's defense counsel.

LVL, on behalf of MFGA, reserves the right to supplement and/or amend this letter to address additional coverage issues as they may arise, based upon all the provisions, terms, conditions, exclusions, endorsements and definitions found in the Policy and additional facts that may come to LVL's attention. Nothing stated herein and no further action taken by LVL or on its behalf should be construed as a waiver of any of its rights under the Policy. On the contrary, by providing this or any other correspondence, engaging in any prior or future discussions, or paying or agreeing to pay any amount to or on or behalf of the Insured, LVL does not waive any rights that it's Client has under the Policy at law or in equity and understands the Insured reserves its rights as well.

If you have any questions or comments that you would like to discuss, please feel free to contact us.

Sincerely,

Michael P. Fried
Assistant Vice President
LVL Claims Services, LLC

Exhibit 7

Filed: USBC - Southern District of New York
11-2790 (MG)

Bankruptcy Claim # 000005450

Document Range

7814380

Begin:	End:	Quantity

Prepped by:	QC:	Stats:	Scanned by:
ID #:			

Route to: (Circle One) Team* *Route to:_____Tina Wheelon_____

B 10 (Official Form 10) (04/10)

UNITED STATES BANKRUPTCY COURT Southern DISTRICT OF New York	PROOF OF CLAIM
Name of Debtor: MF Global, Inc	Case Number: 11-2790

NOTE: *This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.*

Name of Creditor (the person or other entity to whom the debtor owes money or property):
See Attachment A

Name and address where notices should be sent:
Christopher Lovell
61 Broadway, Suite 501
New York, NY 10006
Telephone number: 212-608-1900

☐ Check this box to indicate that this claim amends a previously filed claim.

Court Claim Number:_____
(*If known*)

Filed on:_____

Name and address where payment should be sent (if different from above):
Same as above

Telephone number: Same as above

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: $ 1,292,700,000

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

☐ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2. Basis for Claim: See Attachment B
(See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: Attachment C

3a. Debtor may have scheduled account as: _____
(See instruction #3a on reverse side.)

4. Secured Claim (See instruction #4 on reverse side.)
Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other
Describe:

Value of Property: $_____ Annual Interest Rate_____%

Amount of arrearage and other charges as of time case filed included in secured claim, if any: $_____ Basis for perfection: _____

Amount of Secured Claim: $_____ Amount Unsecured: $ 1,292,700,000

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (*See instruction 7 and definition of "redacted" on reverse side.*)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim.

☐ Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).

☐ Wages, salaries, or commissions (up to $11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).

☐ Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).

☐ Up to $2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).

☐ Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).

☐ Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(__).

Amount entitled to priority:

$_____

**Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

Date: 5/31/12	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.	FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Greg Galan
Class Representative
10310 Parkhaven Ave.
Cleveland, Ohio 44125-2532
Tel – 212. 581. 3546

Christopher Lovell, Esq.
Court-Appointed Class Counsel

Exhibit 8

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
----------X
In re

MF GLOBAL HOLDINGS, LTD, et. Al

Chapter 11

Case No. 11-15059 (MG)

Debtors.

----------X (Jointly Administered)
In re:

MF GLOBAL INC.

Case No.: 11-2790 (MG) SIPA

Debtor
----------X

ORDER VACATING EXPANSION OF THE CONSENT ORDER AND FOR DISCOVERY OF RELEVANT INSURANCE INFORMATION AND COVERAGE

WHEREAS, SUSAN J. LEVY, moved on March 21, 2014 or an Order to Reconsider and Vacate the Expansion of the Consent Order entered on April 19, 2013 as Docket Number 1348 to Case # 11-15059-mg, and for discovery of certain applicable insurance policies.

WHEREAS a hearing was held on April 8, 2014 where full arguments were heard

NOW, therefore, upon consideration of the Motion and upon the hearing on April 8, 2014, and it appearing that proper and adequate notice of the Motion has been given and that n other or further notice is necessary, and after due deliberation thereon,; and good and sufficient cases appearing therefore, it is hereby:

ORDERED that the Expansion of the Consent Order dated April 10, 2013 entered in Case Number 11-15059 as Docket No. 1348 is hereby vacated to the extent of allowing Welsh and MFGA to enter into the Settlement Agreement annexed to the Moving Papers as Exhibit 3 herein. Such Settlement Agreement and Release between Welsh and MFGA is hereby revoked, rescinded and Vacated and shall be unwound herein.

ORDERED, that Ms. Levy is not bound by the Settlement Agreement and Release, annexed to her Motion as Exhibit 2 and it shall have no force an effect in her present litigation against Joseph Welsh.

ORDERED that MFGI, Holdings, U.S.Specialty and Assurance shall within ___ Of this Order provided Movant Ms. Levy with the Following disclosure:

1. Production of all relevant and applicable policies of insurance including both primary and excess coverage in effect and covering the claims interposed by Ms. Levy in her Action Levy v. Welsh, 13-Cv-1858 (SDNY, 2012); and Levy v. Mancini, Index No. 652490-2012 (Sup. Ct. New York, 2012) as well as the claims filed against MFGI and Holdings based on Ms. Levy's validly filed proofs of claim. ("The Levy Claim" herein.)

2. Production of all relevant limits of coverage that apply to the Levy claims, with respect to all policies. If portions of the Coverage have been exhausted a statement of how much has been exhausted and how much remains in reserve on the policies..

3. A statement of which policy period covers the Levy claims, and copies of the policies for the relevant years.

4. A statement of all A-sided coverage that exists on the Policies relevant tot he Levy Claims.

5. Evidence that all available proceeds are in existence in segregated bank accounts and that such proceeds are available to settle claims and have not been used up or expended.

Dated: New York, New York
April __, 2014

MARTIN GLENN
United States Bankruptcy Judge.