

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

MF GLOBAL INC.,

Debtor.

Case No. 11-2790 (MG) SIPA

In re:

MF GLOBAL HOLDINGS LTD., *et al.*,

Debtors.<sup>1</sup>

Chapter 11 Case No. 11-15059 (MG)  
(Jointly Administered)

**ORDER APPROVING (I) THE SALE AND ASSUMPTION  
AGREEMENT, (II) THE TRANSFER AND ABANDONMENT OF SPECIFIED  
SYSTEMS AND DOCUMENTS AND THE SIPA TRUSTEE'S CORRESPONDING  
LIMITATION OF DISCOVERY AND RETENTION OBLIGATIONS, (III) A FINAL  
DISTRIBUTION ON ALLOWED GENERAL UNSECURED CLAIMS NOT  
HELD BY THE MFGH ENTITIES, AND (IV) RELATED RELIEF**

Upon the joint motions (the "Motions") dated July 24, 2015, by James W. Giddens (the "SIPA Trustee"), as Trustee for the liquidation of MF Global Inc. ("MFGI") pursuant to the Securities Investor Protection Act ("SIPA") and MF Global Holdings Ltd. ("Holdings" or the "Plan Administrator"), on behalf of itself and its affiliates, as Plan Administrator under the *Second Amended and Restated Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF*

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1. The debtors in these chapter 11 cases are MF Global Holdings Ltd.; MF Global Finance USA Inc. ("Finance USA"); MF Global Capital LLC; MF Global Market Services LLC; MF Global FX Clear LLC; and MF Global Holdings USA Inc. (collectively, the "Chapter 11 Debtors").

*Global Holdings USA Inc.* (the “Plan”), which was confirmed in the above-captioned chapter 11 cases (the “Chapter 11 Cases”) of Holdings and the other Chapter 11 Debtors, for entry of an order approving (i) the Sale and Assumption Agreement by and between the SIPA Trustee and MF Global Holdings Ltd., as Plan Administrator Under the Confirmed Plan for the Chapter 11 Debtors (the “Sale and Assumption Agreement”),<sup>2</sup> (ii) the transfer and abandonment of specified systems and documents and the corresponding limitation of the SIPA Trustee’s discovery and retention obligations, (iii) the commencement of a final 94% or 95% distribution to all Other Unsecured Creditors following consummation of the Sale and Assumption Agreement, and (iv) related relief, as more fully described in the Motions, the SIPA Trustee’s memoranda of law in support of the Motions, the Plan Administrator’s memorandum of law in support of the Motions, and the accompanying Declarations of Vilia B. Hayes, Esq., Marlena C. Frantzides, Esq., Erik M. Graber, and Andrew Shannahan (the “Filings”); and the Court having considered the Filings, and any objections to the Motions filed by parties in interest; and the Court having considered the statements of counsel at a hearing before the Court; and the Court having jurisdiction to consider the Motions and the relief requested therein in accordance with SIPA § 78eee(b)(4) and 28 U.S.C. §§ 157 and 1334; and venue being proper before this Court pursuant to SIPA § 78eee(a)(3), 15 U.S.C. § 78aa, and 28 U.S.C. § 1408; and due and proper notice of the Motions having been provided, including in accordance with the Bankruptcy Code, Bankruptcy Rules, all other applicable rules and procedures, and the case management orders entered in the MFGI Proceeding and the Chapter 11 Cases, to all parties in interest, and it appearing that the notice of the Motions, which was served on, among others, all parties in interest in the Chapter

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2. Capitalized terms not defined herein shall have the meaning ascribed to them in the Sale and Assumption Agreement.

11 Cases and the MFGI Proceeding, all defendants in the MDL, all insurers under the D&O Policies, E&O Policies, Fidelity Bond, and Fiduciary Policies, all current holders of all pending general creditor claims in the MFGI proceeding, all vendors and counterparties listed on Exhibits B and C to the Agreement and on Schedule A hereto, and all individuals and entities who have previously served a request for documents on the SIPA Trustee is sufficient, adequate, and timely under the circumstances of these cases and that no other or further notices need be provided; and a reasonable opportunity to object or be heard regarding the Motions having been given to all such parties; and a full and fair opportunity having been afforded to litigate all issues raised in all objections, or which might have been raised, and all objections having been fully and fairly litigated; and after due deliberation, the Court hereby finds and concludes as follows:

1. The relief sought in the Motions is in the best interests of (a) the MFGI estate, customers, and creditors and (b) the Chapter 11 Debtors' estates and creditors.
2. The legal and factual bases set forth in the Motions and supporting memoranda and declarations establish just cause for the relief granted herein.
3. The Court hereby takes judicial notice of the dockets in the Chapter 11 Cases and the MFGI Proceeding and all pleadings, papers, hearing transcripts, opinions, orders, and other documents filed in these cases, including, but not limited to, the terms of the Plan and the order confirming the Plan in the Chapter 11 Cases.
4. The SIPA Trustee and the Plan Administrator have demonstrated good, sufficient and sound business judgment for the consummation of the Sale and Assumption Agreement, and such sale is reasonable and appropriate to maximize the value of MFGI's and the Chapter 11 Debtors' estates.
5. The SIPA Trustee and Holdings negotiated in good faith and at arm's length, and the transactions contemplated by the Sale and Assumption Agreement are undertaken by the SIPA Trustee and Holdings in good faith. The SIPA Trustee and Holdings, its affiliates, and their respective officers and directors and advisors have proceeded in good faith and without collusion in all respects. Holdings and/or its designated affiliate ("Assignee"), therefore, is a good faith purchaser, as that term is used in section 363(m) of the Bankruptcy Code, and is granted the protections provided to a good faith purchaser under section 363(m). Accordingly, the reversal or modification on appeal of this

Order or the authorization provided herein to consummate the assignment shall not affect the validity of the assignment of the Assigned Rights to Assignee.

6. The Plan Administrator has given adequate, fair, reasonable and substantial consideration under the Sale and Assumption Agreement for the benefit of the MFGI estate and its creditors and the Agreement may not be avoided under section 363(n) of the Bankruptcy Code. The consideration provided by the Plan Administrator for the Assigned Rights is within the range of reasonableness necessary had the SIPA Trustee sought approval of a compromise of the Assigned Rights for equivalent value pursuant to Bankruptcy Rule 9019.
7. The Assigned Rights are fully assignable under applicable law notwithstanding, by way of example and not limitation, any anti-assignment provisions contained in the insurance policies. The assignment is not collusive and is not intended to, and does not, alter or in any way impair the enforceability of and full receipt of benefits in connection with the Assigned Rights.
8. The Sale and Assumption Agreement constitutes a legal, valid, binding and effective assignment of the Assigned Rights, and there are no legal or equitable impediments to Assignee's full entitlement to and exercise of the Assigned Rights.
9. The SIPA Trustee's publication of notice of the establishment of the record date of August 7, 2015 (the "Record Date") for the purpose of making the third and final distribution for all holders of claims on the SIPA Trustee's website (www.mfglobaltrustee.com) constitutes good and sufficient notice of the Record Date.

In accordance with the foregoing findings and conclusions, it is hereby

**ORDERED** that the Motions are granted in all respects; and it is further

**ORDERED** that any objections to the entry of this Order or the relief granted herein and requested in the Motions that have not been withdrawn, waived, or settled, or not otherwise resolved pursuant to the terms hereof, if any, hereby are denied and overruled; and it is further

**ORDERED** that, pursuant to sections 105(a) and 363 of the Bankruptcy Code, as made applicable to this proceeding by sections 78fff(b) and 78fff-1(a) of SIPA, and Bankruptcy

Rule 6004, the SIPA Trustee and the Plan Administrator are authorized to enter into the Sale and Assumption Agreement in substantially the form and substance as set forth in Exhibit B to the Motions, and the SIPA Trustee, Plan Administrator, and Assignee are authorized to perform their obligations, comply with the terms of, and take all actions to consummate the Sale and Assumption Agreement; and it is further

**ORDERED** that pursuant to section 363(f) of the Bankruptcy Code, the assignment of the Assigned Rights in accordance with the Sale and Assumption Agreement shall be free and clear of any and all liens, claims (as such term is defined in section 101(5) of the Bankruptcy Code, including customer claims), encumbrances and interests, with such liens, claims, encumbrances and interests, if any, to attach to the proceeds of the assignment; and it is further

**ORDERED** that any and all privileges, including the attorney-client and related privileges, held by MFGI with respect to the Assigned Rights and the Assumed Liabilities and Obligations shall be transferred to Assignee, who shall control the assertion of such privileges with respect to such Assigned Rights and Assumed Liabilities and Obligations; and it is further

**ORDERED** that in accordance with Rule 502(d) of the Federal Rules of Evidence, the transfer of any document, data, system or other information to the Plan Administrator or Assignee in accordance with the Sale and Assumption Agreement shall not be deemed to waive whatever attorney-client privilege, work-product protection or other privilege or immunity that would otherwise attach to such document, data, system or other information; and it is further

**ORDERED** that the SIPA Trustee, the Plan Administrator, and Assignee are authorized to (a) provide any consents or waivers in respect of, perform all obligations, and enter into any agreements contemplated by, the Sale and Assumption Agreement, and (b) execute such

other documents and take such other actions as may be necessary or appropriate to effectuate the Sale and Assumption Agreement and the transactions contemplated thereunder or the provisions of this Order; and it is further

**ORDERED** that the failure to specifically include any particular provision of the Sale and Assumption Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Sale and Assumption Agreement be authorized and approved in its entirety; and it is further

**ORDERED** that, except as expressly permitted by the Sale and Assumption Agreement or by this Order, the SIPA Trustee and MFGI and any party holding liens, Claims, encumbrances or interests of any kind or nature whatsoever against or in the Assigned Rights, or MFGI's interests in the Assigned Rights, shall be and hereby are forever barred, estopped and permanently enjoined from commencing, prosecuting or continuing in any manner any action or other proceeding of any kind against the Plan Administrator and/or Assignee, their property and their successors and assigns relating to the Assigned Rights; and it is further

**ORDERED** that Assignee shall become the Assignee of Assignor's rights, remedies, title, and interests in (a) the NES Assignment Agreement (b) the Allocation Motion, (c) the Allocation Order, (d) the District Court Order, (e) the CCAA, (f) the Common Interest Agreement, (g) the E&O Assigned Claims, (h) the D&O Assigned Claims, (i) the MDL Assigned Claims, (j) the Fidelity Bond Assigned Claims, (k) the Fiduciary Policy Assigned Claims, (l) the Dooley Assignment Agreement and Dooley Assigned Claims, (m) the MFGUK Assigned Claim, (n) the MFGUK Settlement Agreement, (o) the LCH Assigned Claim, (p) the Assigned Data and Contracts, and (q) the Remnant Assigned Assets; and it is further

**ORDERED** that by virtue of the assignment of the NES Assignment Agreement, Allocation Motion, Allocation Order, and District Court Order, (a) Assignee shall become the

assignee of, among other things, all of the SIPA Trustee's rights, remedies, title, and interests as assignee and/or subrogee of the rights of all customers and the right to pursue claims against third parties based on the deficit in the 4d and 30.7 customer estates to the extent that general estate funds were advanced (by the Allocation Order or otherwise) to satisfy net equity claims, including, without limitation, (i) the right to receive any and all money and other property recovered or collected by the Customer Representatives in the MDL under the NES Assignment Agreement and (ii) the right to receive any and all money and other property recovered or collected on account of all potential claims of customers against third parties to recover for the shortfall in the 4d and 30.7 customer estates in existence as of the moment before any advances of funds from the MFGI general estate pursuant to the Allocation Order, and (b) the Customer Representatives will continue to prosecute the MDL Assigned Claims in the MDL pursuant to the terms of the CCAA, and Assignee shall have and exercise all of the SIPA Trustee's rights, remedies, title, interests, and obligations under the NES Assignment Agreement, Allocation Motion, Allocation Order, District Court Order, CCAA, and Common Interest Agreement; and it is further

**ORDERED** that this Order (a) shall be effective as a determination that, on the Closing Date, all liens, Claims, encumbrances or interests of any kind or nature whatsoever existing as to the Assigned Rights have been unconditionally released, discharged and terminated, and that the conveyances described in the Sale and Assumption Agreement have been effected, and (b) shall be binding upon and shall govern the acts of all entities; and it is further

**ORDERED** that the terms and provisions of the Sale and Assumption Agreement and this Order shall be binding in all respects upon the SIPA Trustee, MFGI, the MFGI estate, all creditors and customers (whether known or unknown) and holders of equity interests in MFGI,

the Chapter 11 Debtors, the Customer Representatives, all parties in interest in the Chapter 11 Cases, all insurers under the E&O Policies, D&O Policies, Fidelity Bonds, and Fiduciary Policies, any affected third parties, including, but not limited to, all persons asserting liens, Claims, encumbrances or interests in the Assigned Rights, and the respective affiliates, successors and assigns of each of the foregoing; and it is further

**ORDERED** that Assignee shall administer the Assigned Rights for the benefit of the MFGH Entities as though the Assigned Rights were distributed among the MFGH Entities in the amounts that the MFGH Entities would otherwise receive from the MFGI estate on account of (a) the MFGH Entities' allowed claims in the MFGI Proceeding, (b) the Dooley Assignment Agreement, and (c) the MFGH-JPMC Settlement. For the avoidance of doubt, the Assigned Rights shall be allocated among the MFGH Entities as follows:

- a) Under the Dooley Assignment Agreement, Finance USA is entitled to recover the first \$135 million in proceeds, and any proceeds above \$135 million are divided among the Chapter 11 Debtors in accordance with the formula set forth in the Dooley Assignment Agreement and based on the Chapter 11 Debtors' allowed claims in the MFGI Proceeding.
- b) With respect to any distributions received by JPM as part of the Final Distribution, 75% of the amount of such distributions it receives between \$30 million and \$50 million, and 100% of such distributions above \$50 million are immediately payable by JPM to Holdings.
- c) All remaining Assigned Rights and their proceeds shall be allocated among the Chapter 11 Debtors by the Plan Administrator consistent with the amounts of their allowed claims in the MFGI Proceeding.

**ORDERED** that upon the Closing Date and thereafter, the only systems and documents required to be retained by the SIPA Trustee are (i) the records of the liquidation, (ii) records showing daily computations of the funded balances of each account with open commodities contracts as required pursuant to 17 C.F.R. § 190.04(b)-(c), and (iii) documents

relevant to the resolution of the Disputed Claims (collectively, the “Retained Documents”); and it is further

**ORDERED** that the assignment and transfer by the SIPA Trustee to the Plan Administrator and/or the Assignee of the (i) Assigned Contracts listed on Exhibit B of the Agreement, and (ii) Assumed Preservation Liabilities and Obligations listed on Exhibit C of the Agreement, are hereby authorized and approved; and it is further

**ORDERED** that upon the Closing Date and thereafter, the SIPA Trustee will no longer have any duties or obligations with respect to the Assigned Contracts or the Assumed Preservation Liabilities and Obligations, except as may be specifically enumerated in Section 4.5 of the Sale and Assumption Agreement, and shall not be responsible for any fees, costs or other expenses arising from or relating to the Assigned Contracts or Assumed Preservation Liabilities and Obligations; and it is further

**ORDERED** that upon the Closing Date and thereafter, with respect to any party or third party discovery requests that seek pre-Filing Date documents or other information in the MDL or any other proceeding related to the MDL Assigned Claims, the Fidelity Bond Assigned Claim, the E&O Assigned Claim, the Dooley Assigned Claim, the LCH Assigned Claim or any Assigned Rights, the Plan Administrator or Assignee will be the responsible responding party; and it is further

**ORDERED** that upon the Closing Date and thereafter, the SIPA Trustee shall no longer have title, possession, custody or control of any documents, systems, or data other than Retained Documents and will no longer have any document preservation obligations or obligations to respond to requests for information, including, but not limited to, requests made by governmental entities or parties to litigation involving MFGI, other than with respect to the Retained Documents; and it is further

**ORDERED** that pursuant to section 554(a) of the Bankruptcy Code, made applicable to this proceeding by SIPA sections 78fff(b) and 78fff-1(a), the records and systems listed on Schedule A to this Order (the “Discarded Records and Systems”) are hereby abandoned; and it is further

**ORDERED** that the SIPA Trustee may (a) terminate the contracts for the Discarded Records and Systems effective immediately, and (b) instruct the vendors to destroy any data or records in their possession; and it is further

**ORDERED** that, the SIPA Trustee shall not be required to make further payments related to the Discarded Records and Systems for any period beyond the date of this Order, including but not limited to, the maintenance, destruction, or purge of the data thereto; and it is further

**ORDERED** that within five (5) business days of the completion of the purge, destruction, and termination of the Discarded Records and Systems, the vendors shall provide the SIPA Trustee a certification of destruction affirming the full and complete termination and purge of the data pursuant to this Order; and it is further

**ORDERED** that the Plan Administrator and Assignee shall not assume any liabilities or obligations of the SIPA Trustee not specifically enumerated in the Sale and Assumption Agreement; and it is further

**ORDERED** that the establishment of the Final Unsecured Claims Reserve in an amount of \$48.8 million (if the Final Distribution is 95%) or \$46.5 million (if the Final Distribution is 94%) is approved and that the Final Unsecured Claims Reserve shall be used to make a third and final distribution to the holders of the Other Unsecured Claims listed on Schedule B and to establish *pro rata* reserves for the Disputed Claims listed on Schedule C in the amount listed on each Schedule; and it is further

**ORDERED** that the establishment of the Final Administrative Expense Reserve in the allowable amount of any claims asserted for administrative expenses arising after September 1, 2013 is approved and that the Final Administrative Expense Reserve shall be used to make a final distribution to the holders of allowed administrative expense claims, if any; and it is further

**ORDERED** that the SIPA Trustee is authorized to release reserves of \$367,653.85 from the Priority Claim Reserve, \$2,203,953.52 from the Unsecured Claims Reserve, and \$1,977,907.01 from the Second Unsecured Claims Reserve and transfer those released reserves to the Final Unsecured Claims Reserve; and it is further

**ORDERED** that, with respect to the Disputed Claims, the First Interim Distribution Order (ECF No. 8364) and the Second Interim Distribution Order (ECF No. 8745) shall continue to apply as to the *pro rata* reserves maintained and distributions made pursuant to such Order, in addition to the *pro rata* reserves and distributions authorized herein; and it is further

**ORDERED** that the SIPA Trustee is authorized to make a third and final distribution to the holders of the Other Unsecured Claims listed on Schedule B; and it is further

**ORDERED** that the SIPA Trustee shall make the third and final distribution to the holders of the Other Unsecured Claims as soon as practicable after the Closing Date; and it is further

**ORDERED** that after each Other Unsecured Creditor receives its final distribution in accordance with the Sale and Assumption Agreement and this Order, such distribution shall be deemed a final satisfaction of such creditor's Other Unsecured Claim, and such Other Unsecured Creditor shall no longer be entitled to any further distributions from the MFGI estate, the SIPA Trustee, or otherwise; and it is further

**ORDERED** that MF Global Finance USA Inc. and MF Global Holdings USA Inc., which hold allowed subordinated claims in the amounts of \$470 million and \$130 million respectively, and the holders of all other subordinated general unsecured claims in the MFGI Proceeding, which claims are subordinated to the MF Global Finance USA Inc. and MF Global Holdings USA Inc. claims as well, shall not be entitled to any recovery on account of such subordinated claims from the MFGI estate, the SIPA Trustee, or otherwise; and it is further

**ORDERED** that the Record Date for the purpose of making the third and final distribution authorized herein for all holders of claims is August 7, 2015; and it is further

**ORDERED** that if and to the extent that a Disputed Claim becomes an Other Unsecured Claim pursuant to a Final Order<sup>3</sup> entered by this Court (or another court of competent jurisdiction) or stipulation between the SIPA Trustee and the holder of such claim that has been approved by the Court, the SIPA Trustee is authorized to make the requisite *pro rata* distribution to the holder of each such Other Unsecured Claim as of the Record Date and to release the amount corresponding with such claim from the Final Unsecured Claims Reserve without further notice or Order of the Court; and it is further

**ORDERED** that with respect to Disputed Claims the SIPA Trustee determines should be Other Unsecured Claims other than pursuant to Order of this Court, the SIPA Trustee shall periodically file with the Court a supplemental schedule of such claim(s) (a “Supplemental”

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3. For the purposes of this Order, the term “Final Order” shall mean an order or judgment of the Bankruptcy Court as entered on the docket, the operation or effect of which has not been stayed, reversed, or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review, writ of certiorari, or rehearing was filed or, if filed, remains pending, *provided however*, that no order shall fail to become a Final Order solely because of the possibility that a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure, Bankruptcy Rule 9024, any similar local bankruptcy rule or any similar state statute or rule may be filed with respect to such order.

Distribution Schedule”) and serve the same on the holder(s) of such claim(s) and all parties in interest that have filed a notice of appearance and requested notice in the MFGI SIPA proceeding; and it is further

**ORDERED** that unless a written objection to that Supplemental Distribution Schedule is filed and served on the SIPA Trustee’s counsel and the holder(s) of such claim(s) within ten (10) days of the date of service of the Supplemental Distribution Schedule, the SIPA Trustee shall be authorized to make the requisite *pro rata* distributions to the holder(s) of the Other Unsecured Claims identified in the Supplemental Distribution Schedule as of the Record Date and to release the amount(s) corresponding with respect to such claim(s) from the Final Unsecured Claims Reserve; and it is further

**ORDERED** that with respect to Disputed Claims that, either in whole or in part, become disallowed, expunged, or reclassified as subordinated claims or equity interests by Final Order entered by this Court (or another court of competent jurisdiction), or that are settled or withdrawn with similar effect, the SIPA Trustee is authorized to release the amount corresponding to the disallowed, expunged, or reclassified portion of such claim(s) from the Final Unsecured Claims Reserve without further Order of the Court; and it is further

**ORDERED** that the Trustee is authorized to pay any amounts due as tax based on any distributions to claim holders from the Final Unsecured Claims Reserve and release such amounts from the Final Unsecured Claims Reserve without further notice or Order of the Court; and it is further

**ORDERED** that nothing in this Order shall affect the administrative expense claims and/or requests for reimbursement of actual and necessary expenses, in accordance with SIPA and/or the Bankruptcy Code, of any person or entity who is a professional advisor (*e.g.*, counsel, financial advisors, accountants, claims agents) retained by the SIPA Trustee, including

all counsel retained pursuant to orders of the Bankruptcy Court and the District Court, and all other professionals retained, with permission from SIPC, pursuant to SIPA section 78fff-1(a)(1), and SIPC itself; and it is further

**ORDERED** that the SIPA Trustee is authorized and empowered to take such steps and perform such acts as may be necessary to implement the effectuation of all distributions authorized by this Order, including without limitation requiring holders of Other Unsecured Claims to complete all tax forms and other documentation necessary to be received by the SIPA Trustee prior to effectuation of such distributions; and it is further

**ORDERED** that entry of this Order is without prejudice to the right of the SIPA Trustee to seek a further order of this Court disallowing, expunging, objecting to or otherwise resolving any of the Disputed Claims; and it is further

**ORDERED** that ninety days after the final distribution the SIPA Trustee shall stop payment on any check remaining unpaid (the “Uncashed Checks”) and transfer any amounts related to the Uncashed Checks to Assignee; and it is further

**ORDERED** that if the Closing does not occur, then this Order shall be deemed to be nullified and void *ab initio* in all respects; and it is further.

**ORDERED** that this Order shall be effective and enforceable immediately upon entry and shall constitute a final order within the meaning of 28 U.S.C. § 158(a). To the extent applicable, Bankruptcy Rule 6004(h) is hereby waived; and it is further

**ORDERED** that the SIPA Trustee, the Plan Administrator, and Assignee are authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order; and it is further

**ORDERED** that this Court shall retain jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Dated: August 19, 2015  
New York, New York

/s/Martin Glenn  
MARTIN GLENN  
United States Bankruptcy Judge