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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

COMMODITY FUTURES  
TRADING COMMISSION,

Plaintiff,

v.

DENARI CAPITAL LLC,  
TRAVIS CAPSON, and  
ARNAB SARKAR

Defendants.

Case No. 19-cv-07284-EC

**[PROPOSED] ORDER GRANTING  
ADMINISTRATIVE MOTION BY  
RECEIVER PURSUANT TO LOCAL  
CIVIL RULE 7-11 FOR ENTRY OF  
ORDER:**

- (1) ESTABLISHING CLAIMS BAR DATE;**
- (2) APPROVING FORM AND MANNER OF NOTICE;**
- (3) APPROVING PROOF OF CLAIM FORM AND SUMMARY PROCEDURES; AND**
- (4) ESTABLISHING THE NET INVESTMENT METHODOLOGY FOR CLAIMS**

Date: No Hearing Set  
Time: No Hearing Set  
Judge: Edward M. Chen

The Temporary Receiver in this matter appointed pursuant to the Court’s Order Appointing Receiver (the “Receiver Order”) (Doc. No. 37), Kathy Bazoian Phelps (the “Receiver”), requests that the Court grant the *Administrative Motion Pursuant to Local*

1 *Civil Rule 7-11 for Entry of an Order (i) Establishing Claims Bar Date; (ii) Approving*  
2 *Form and Manner of Notice; (iii) Approving the Proof of Claim Form and Summary*  
3 *Claims Procedure; and (iv) Establishing the Net Investment Methodology for Claims* (the  
4 “Motion”)<sup>1</sup>. The Receiver through her declaration has represented that she has conferred  
5 with counsel for the Commodity Futures Trading Commission and the Receivership  
6 Defendants, who have confirmed that they do not oppose the Motion.

7 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED THAT:

8 1. The Receiver’s Motion is granted.

9 2. **Establishment of Claims Bar Date.** The deadline by which all investors,  
10 creditors, and other claimants must submit completed and signed proofs of claim  
11 evidencing their claims against Denari Capital LLC (“Denari”), Travis Capson, and Arnab  
12 Sarkar (collectively with Denari, the “Receivership Defendants”) (collectively, the  
13 “Receivership Entities”) is hereby set as \_\_\_\_\_, 2020 (the “Claims Bar  
14 Date”)

15 3. **Notice by Email, Mail and Publication.** The Receiver shall serve all  
16 known potential claimants by email to the extent she has a known email address, or by  
17 regular mail if she has a known mailing address, within thirty (30) days after entry of this  
18 Bar Date Order, with: (i) notice of the Claims Bar Date and the procedures for submitting  
19 proofs of claim, substantially in the form of the notice attached to the Phelps Declaration  
20 as Exhibit “1” (the “Bar Date Notice”) and (ii) a proof of claim form substantially in the  
21 form of the documents attached to the Phelps Declaration as Exhibit “2” (“Claim Form”).

22 4. **Notice by Publication:** The Receiver shall publish the Bar Date Notice in  
23 the following general circulation newspaper at least thirty (30) days prior to the Bar Date:  
24 *San Francisco Chronicle* or a newspaper of similar circulation.

25 5. **Approval of Claim Form.** The Court approves the Claim Form attached to  
26 \_\_\_\_\_

27 <sup>1</sup> All capitalized terms used but not defined herein shall have the meanings given to them in the  
28 Motion.

1 the Phelps Declaration as Exhibit “2” for the submission of any and all types of claims.

2       6.     **Procedures for Submitting and Determining Proofs of Claim.** All  
3 claimants must complete and sign the Claim Form under penalty of perjury and return it to  
4 the Receiver before the Bar Date with supporting documentation. The claimant must  
5 provide the amount(s) that he or she contends is owed, as well as legible copies of  
6 documents supporting the claim or, if such documents are not available, an explanation as  
7 to why documentation is lacking.

8       7.     Each filed proof of claim must conform substantially to the Claim Form  
9 approved by the Court. Each proof of claim must be signed by the claimant or, if the  
10 claimant is not an individual, by an authorized agent of the claimant. The claimant must  
11 attest under oath that the information provided therein is true and correct. Each proof of  
12 claim must be legible, written in English, and denominated in U.S. currency.

13       8.     **Effect of Failure to Submit Claim Form Before Bar Date.** If any claimant  
14 fails to return the Claim Form to the Receiver in a timely manner, the effect of such failure  
15 will be that the claimant waives any claim against the Receivership Estate. Any claims  
16 received after the Claims Bar Date shall forever be disallowed without further order of the  
17 Court.

18       9.     **Use of the Net Investment Method To Fix Allowed Amount of Investor**  
19 **Claims Is Appropriate.** The Court authorizes the Receiver to fix the amount of investor  
20 claims by utilizing the net investment methodology of calculation of those claims,  
21 allowing the Receiver to offset payments made to the investors against the amount that  
22 they invested.

23       10.    **Claims Objections.** The Receiver may file appropriate objections to those  
24 claims the Receiver believes are objectionable in the exercise of her business judgment,  
25 forth the factual and legal basis therefor. The Receiver shall identify the portion of the  
26 claim she believes is unobjectionable and should be allowed. The burden of proof will  
27 then shift to the claimant to overcome the objection.

28

1           11.    **Limitation on Discovery and Motion Practice.** Prior to the Receiver’s  
2 filing of an objection to a claim, no discovery, motion practice, or other claims litigation  
3 shall occur unless the claimant and the Receiver agree, or if the Receiver does not agree,  
4 the claimant first seeks and obtains leave of Court, upon a showing of good cause and  
5 substantial need for such relief. If discovery and/or motion practice is allowed by the  
6 Court on request of the claimant, then the Receiver shall have a reciprocal right to conduct  
7 discovery and/or motion practice.

8           12.    **Jurisdiction of the Court.** The submission of a proof of claim will subject  
9 the claimant to the jurisdiction of the United States District Court for the Northern District  
10 of California, for all purposes and constitutes agreement to be bound by its decisions,  
11 including, without limitation, a determination as to the extent, validity, priority, and  
12 amount of any claim asserted against the Receivership Estate. The submission of a Claim  
13 Form shall constitute consent to be bound by the decisions of the Court as to the  
14 classification, treatment, and payment of the claim in a Court-approved distribution plan.

15           13.    **Authority to Compromise and Settle.** The Receiver shall have the  
16 authority to compromise and settle any claim dispute, at any time, as appropriate, without  
17 further order of this Court, where the amount of the claim is less than \$25,000.00 and/or  
18 the amount discounted or given up by the Receivership Estate in the compromise is  
19 \$50,000.00 or less. The Receiver, at her discretion, may file a motion seeking Court  
20 approval of any compromise or settlement of a claim. All parties to this proceeding are  
21 directed to cooperate with the Receiver to the maximum extent possible to achieve a swift  
22 resolution of disputes concerning claims without the need for determination by the Court.

23           14.    **Reservation of Rights.** Nothing herein shall prejudice or limit any right of  
24 the Receiver to dispute, or assert offsets or defenses, as to the extent, validity, or priority,  
25 or otherwise against amounts asserted in any claim, including but not limited to the  
26 manner in which accounts will be aggregated and claims classified, treated, and paid  
27 under a Court-approved distribution plan. Nothing contained herein is intended to  
28 preclude or limit the Receiver from objecting to any claim on any grounds. Subject to

1 approval of the Court, the Receiver retains the sole and absolute right to propose a plan of  
2 distribution.

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DATED:

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HON. EDWARD M. CHEN  
United States District Judge