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7 *Temporary Receiver*

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 COMMODITY FUTURES TRADING  
12 COMMISSION,

13 Plaintiff,

14 v.

15 DENARI CAPITAL LLC, TRAVIS  
16 CAPSON, and ARNAB SARKAR

17 Defendants.

Case No. 19-cv-07284-EC

**NOTICE OF CLAIMS BAR DATE AND  
PROCEDURE FOR SUBMITTING A  
PROOF OF CLAIM FORM**

18 **TO ALL CLAIMANTS OF THE RECEIVERSHIP ESTATE:**

19 **PLEASE TAKE NOTICE OF THE FOLLOWING:**

20 On February 6, 2020, the United States District Court for the Northern District of  
21 California (the "Court") entered an order in the above-captioned case (the "Bar Date Order")  
22 establishing April 6, 2020, at 11:59 p.m. (prevailing Pacific Time) as the deadline (the "Claims  
23 Bar Date") for claimants to submit a completed and signed Proof of Claim form under penalty of  
24 perjury, together with supporting documentation (a "Claim Form"), against the estate of the  
25 Receivership Defendants (the "Receivership Estate")<sup>1</sup> in the above-captioned case.

26 \_\_\_\_\_  
27 <sup>1</sup> The "Receivership Defendants" include Denari Capital, LLC ("Denari"), Travis Capson, and Arnab Sarkar  
28 (collectively with Denari, the "Receivership Defendants") and all of their assets, except as set forth in the Order  
appointing a temporary receiver (the "Receiver Order") (Doc. No. 37).

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**1. WHAT IS THE CLAIMS BAR DATE?**

The Claims Bar Date is the date by which the individuals and entities described below must submit a Claim Form with the Receiver in the manner indicated below. The Claims Bar Date is April 6, 2020 at 11:59 p.m. (prevailing Pacific Time), and all Proofs of Claim, together with supporting documentation, must be timely submitted to the Receiver by: (i) electronic mail, as an attachment in portable document format (.pdf), to [kphelps@diamondmccarthy.com](mailto:kphelps@diamondmccarthy.com); or (ii) first-class mail or overnight courier to the Receiver at Diamond McCarthy LLP, 1999 Avenue of the Stars, Suite 1100, Los Angeles, California 90067-4402; such that if emailed or sent by courier service, it is delivered to the Receiver no later than the Claims Bar Date, or if sent by mail is postmarked no later than the Claims Bar Date. Claim Forms submitted with a valid email address will receive email confirmation of receipt by the Receiver of the Claim Form.

Please note that any Claim Form not timely submitted or in the proper form will be subject to disallowance, which means such claimant would not be eligible to receive any distribution under a Court approved- distribution plan.

**2. WHO NEEDS TO SUBMIT A PROOF OF CLAIM?**

ALL individuals and entities (including, without limitation, partnerships, corporations, joint ventures, estates, trusts, and governmental units or authorities) that believe they possess a claim, a potential or claimed right to payment, or a potential claim of any nature, against any of the Receivership Defendants and believe that they are owed money by, or are entitled to a distribution from the Receivership Estate must submit a Claim Form (each a "Claimant").

All claimants, whether investors or creditors, must submit a claim form.

An Investor Claim is founded on contract based on the investor's contractual investment agreements with one or more of the Receivership Defendants for monies owed in connection with an investment made in Denari, or by and through Denari, or by and through one or more of the Receivership Defendants for the Claimant's benefit under a subscription agreement or similar investment contract.

A Creditor Claim is a claim against one or more of the Receivership Defendants, including but

1 not limited to transactions based on, related to, or in connection with: (i) any vendor contract, lease,  
2 or other noninvestment agreement for which payment has not been made in whole or in part; (ii) the  
3 provision of goods or services provided; (iii) unpaid wages, compensation, or other employment  
4 benefits; (iv) taxes payable by a Receivership Defendant, including those that may be asserted by  
5 federal, state, local or other governmental entities or authorities; or (v) any other legal, equitable,  
6 contractual, tort, statutory or other claim related to the acts, omissions, conduct, and/or activities  
7 of the Receivership Defendants.

8 Investor Claims and Creditor Claims include claims that are contingent or fixed, liquidated  
9 or unliquidated, matured or unmatured, disputed or undisputed.

10 **This notice is being sent to many individuals and entities that have had some**  
11 **relationship or have done business with the Receivership Defendants. The fact that**  
12 **you have received this notice does not necessarily mean that you are a Claimant, that you**  
13 **have a valid Claim, or that the Court or the Receiver believes you have a Claim against**  
14 **any of the Receivership Defendants or the Receivership Estate.**

15 **3. WHAT ARE THE CONSEQUENCES OF NOT TIMELY AND**  
16 **PROPERLY SUBMITTING A CLAIM FORM?**

17 **ANY CLAIMANT WHO FAILS TO SUBMIT A CLAIM FORM IN A TIMELY**  
18 **MANNER OR IN THE PROPER FORM, SHALL**

19 **(a) BE FOREVER BARRED, ESTOPPED, AND ENJOINED TO THE**  
20 **FULLEST EXTENT ALLOWED BY APPLICABLE LAW FROM**  
21 **ASSERTING, IN ANY MANNER, SUCH CLAIM AGAINST**

22 **(i) ANY RECEIVERSHIP DEFENDANT, AND**

23 **(ii) THE RECEIVERSHIP ESTATE OR ITS ASSETS, AND**

24 **(b) SHALL NOT RECEIVE ANY DISTRIBUTION FROM OR HAVE**  
25 **STANDING TO OBJECT TO ANY DISTRIBUTION PLAN PROPOSED BY**  
26 **THE RECEIVER.**

27 **4. WHERE CAN I GET A COPY OF THE CLAIM FORM?**

28 For your convenience, enclosed with this notice is a Claim Form. Copies of this Bar Date  
Notice and the Claim Form can also be obtained by emailing the Receiver at:

1 *kphelps@diamondmccarthy.com.*

2 **5. HOW DO I SUBMIT MY CLAIM FORM?**

3 A properly completed and signed Claim Form, together with supporting documentation,  
4 must be timely submitted to the Receiver by: (i) electronic mail, as an attachment in portable  
5 document format (.pdf), to *kphelps@diamondmccarthy.com*; (ii) first-class mail or overnight  
6 courier to first-class mail or overnight courier to the Receiver at Diamond McCarthy LLP, 1999  
7 Avenue of the Stars, Suite 1100, Los Angeles, California 90067-4402; such that if emailed or sent  
8 by courier service, it is delivered to the Receiver no later than the Claims Bar Date, or if sent by first-  
9 class mail is postmarked no later than the Claims Bar Date.

10 If you choose to submit a Claim Form by electronic mail, you should retain a copy of the  
11 email or other evidence the Claim Form was delivered to the Receiver no later than the Claims Bar  
12 Date. If you choose to submit a Claim Form by courier service, you should retain evidence the  
13 Claim Form was delivered to the Receiver no later than the Claims Bar Date. If you choose to  
14 submit a Claim Form by mail, it is recommended that you submit your Claim Form by certified or  
15 registered mail and retain evidence that the Claim Form was postmarked no later than the Claims  
16 Bar Date.

17 Claim Forms submitted with a valid email address will receive email notification from the  
18 Receiver confirming receipt of the Claim Form.

19 Claim Forms should not be filed with the Court, or sent to the Receiver's legal counsel,  
20 retained professionals, or otherwise delivered to the Receivership Defendants, and any Claim Form  
21 so filed or sent will not be considered properly filed.

22 If you reasonably believe you hold or may hold a Claim against one or more of the  
23 Receivership Defendants, your Claim Form must identify the Receivership Defendant(s) against  
24 which the Claim is asserted. The failure to identify the correct entity in the Claim Form may be  
25 grounds for objection to, and disallowance of, such Claim.

26 **A. SUPPORTING DOCUMENTS TO INCLUDE WITH YOUR**  
27 **CLAIM FORM.**

28 Each submitted Claim Form shall include copies of all documents available that support

1 such claim. Such documentation may include, but is not limited to: copies of personal checks,  
2 cashier's checks, wire transfer advices, and other documents evidencing the investment of funds;  
3 copies of each signed investment contract, copies of all agreements, promissory notes, purchase  
4 orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages,  
5 security agreements, evidence of perfection of liens; and any other documents evidencing the  
6 amount and basis of the claim.

7 As applicable, supporting documentation must also include a chronological accounting  
8 of any withdrawals made by or payments received from any Receivership Defendant, whether  
9 such payments were denominated as the return of principal, interest, commissions, finder's fee, or  
10 otherwise, indicating the date and amount of each withdrawal or payment.

11 PLEASE INCLUDE YOUR NAME ON EVERY DOCUMENT THAT YOU SUBMIT.

12 DO NOT SEND ORIGINAL DOCUMENTS.

13 It is the responsibility of Claimants and other interested parties to keep the Receiver  
14 apprised of a current email and mailing address in order to receive notices or other  
15 communication from the Receiver or the Receivership Estate.

16 Each Claim Form will have to satisfy certain minimum standards in order to establish a  
17 Claim and be eligible to receive a distribution pursuant to a Court-approved distribution plan.  
18 Accordingly, the more directly relevant information a Claim Form provides, the easier it will  
19 be for the Receiver to validate the Claim.

20 If such supporting documentation is not available, in an addendum that is attached to your  
21 Claim Form, please explain why it is not available.

22 **PLEASE DO NOT SUBMIT THE FOLLOWING TYPES OF DOCUMENTS WITH**  
23 **THE CLAIM FORM UNLESS REQUESTED BY THE RECEIVER:**

- 24 (i) Copies of pleadings on file in this case related to the Receiver's  
appointment or the receivership; and
- 25 (ii) Other documents received from the Receivership Estate or the  
26 Receiver that do not reflect specific information concerning the  
27 existence or amount of a claim.

1                   **6.       REQUESTS FOR ADDITIONAL INFORMATION AND**  
2                   **CLAIMS OBJECTIONS.**

3                   If after receiving a Claim Form, the Receiver determines that she needs additional  
4 information to process a Claim, the Receiver may contact you by telephone, mail or email to  
5 request such additional information.

6                   For those claims the Receiver believes are objectionable, the Receiver will communicate  
7 first with the claimant informally stating the basis of her objection and shall try to reach resolution  
8 of any disputes. If the parties are unable to reach a resolution, then the Receiver will file with the  
9 Court an appropriate objection, setting forth the factual and legal basis therefor. The Receiver will  
10 identify the portion of the claim, if any, she believes is unobjectionable and should be allowed.<sup>2</sup>  
11 The objection shall include: (i) a detailed statement of the legal and factual basis for the Receiver’s  
12 objection, and (ii) copies of any document or other writing or other evidence upon which the  
13 Receiver relies in support of her objection. The burden of proof will then shift to the claimant to  
14 overcome the Receiver’s objection. The claimant’s response to the Receiver’s claim objection  
15 shall be filed with the Court, with a copy served on the Receiver and her counsel, pursuant to the  
16 Court’s Local Rules regarding responses to motions.

17                   **7.       HOW WILL MY CLAIM BE CALCULATED**

18                   The Court has approved a net investment methodology of calculation for investor claims.  
19 The net investment calculation fixes the amount of the investors’ claim as the total amount  
20 deposited by the claimant with the Receivership Entities less amounts returned to such claimant  
21 by the Receivership Entities and less any illegal trading profits reinvested by or credited to such  
22 claimant. Expected profits or interest will not be included in the allowed claim amount.

23                   **8.       COOPERATION.**

24                   The Court has directed all parties to cooperate with the Receiver to the maximum extent  
25 possible to achieve swift resolution of disputes concerning Claims without the need for a

26 \_\_\_\_\_  
27 <sup>2</sup> While claims must be submitted to the Receiver prior to the Claims Bar Date, claimants are permitted and, indeed,  
28 encouraged to submit completed Claims Forms to the Receiver in advance of the Claims Bar Date. The Receiver  
will begin to evaluate claims upon submission and is free to consider and agree to the amount of allowed claims any  
time after submission.

1 determination by the Court.

2 **9. LIMITATION ON DISCOVERY AND MOTION PRACTICE.**

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

9 **10. CONSENT TO JURISDICTION.**

10 If you submit a Claim Form in this case, you consent to the jurisdiction of the Court for  
11 all purposes and agree to be bound by its decisions, including, without limitation, a  
12 determination as to the extent, validity, priority, and amount of any Claim you assert against the  
13 Receivership Estate. In submitting a Claim Form, you agree to be bound by the decisions of the  
14 Court as to the treatment of your Claim in a Court-approved distribution plan.

15 **11. RESERVATION OF RIGHTS.**

16 The Receiver reserves the right to dispute, or assert offsets or defenses as to, the extent,  
17 validity, priority, or otherwise against, any amounts asserted in any Proof of Claim, including  
18 but not limited to the manner in which accounts will be aggregated and treated under a Court-  
19 approved distribution plan. Nothing set forth in this Bar Date Notice or the Claim Form shall  
20 preclude the Receiver from objecting to any Claim Form, on any grounds. Subject to the approval  
21 of the Court, the Receiver retains the sole and absolute right to propose a plan of distribution.

22  
23 Dated: February 6, 2020

By: /s/ Kathy Bazoian Phelps  
Kathy Bazoian Phelps  
Temporary Receiver