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Receiver

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-EMC

Assigned to: Hon. Edward M. Chen

**NOTICE OF MOTION BY RECEIVER
FOR ORDER:**

**(1) APPROVING RECEIVER'S FINAL
REPORT AND ACCOUNTING;
(2) AUTHORIZING FINAL
DISTRIBUTION;
(3) BARRING FUTURE CLAIMS;
(4) AUTHORIZING PAYMENT OF
ALL ADMINISTRATIVE EXPENSES
AND PROFESSIONALS' FEES AND
COSTS;
(5) CLOSING THE RECEIVERSHIP;
(6) DISCHARGING THE RECEIVER;
AND
(7) RETAINING JURISDICTION**

Date: June 26, 2025
Time: 1:30 p.m.
Judge: Edward M. Chen

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE THAT on June 26, 2025 at 1:30 p.m., in Courtroom 5 of the above-titled Court located at 450 Golden Gate Ave., San Francisco, California, Kathy Bazoian Phelps, the Court-appointed receiver herein (the “Receiver”) for Denari Capital, LLC (“Denari”), Travis Capson (“Capson”), and Arnab Sarkar (“Sarkar” and, collectively, the “Receivership Defendants”) will and hereby does move for an order granting her Motion for (1) Approving the Receiver’s Final Report and Accounting; (2) Authorizing a Final Distribution; (3) Barring Future Claims; (4) Authorizing Payment of All Administrative Expenses and Professionals’ Fees and Costs; (5) Closing the Receivership; (6) Discharging the Receiver; and (7) Retaining Jurisdiction (the “Motion”).

Procedural Requirements: If you oppose all or part of the relief requested in this Motion, you are required to file your written opposition with the Office of the Clerk, United States District Court, 450 Golden Gate Ave., San Francisco, California 94102, and serve the same on the undersigned not later than June 3, 2025, pursuant to Local Civil Rule 7-3. IF YOU FAIL TO FILE AND SERVE A WRITTEN OPPOSITION by the above date, the Court may grant the requested relief without further notice. The Receiver may file any reply to such opposition on or before June 10, 2025.

Meet and Confer: The Receiver has met and conferred with the Commodity Futures Trading Commission (“CFTC”), and counsel to the Receivership Defendants prior to filing this pleading and they have no objection to the relief requested herein.

Relief Requested in Motion: The Motion seeks entry of an order with the following relief:

1. **Approval of the Receiver’s Final Report and Accounting.** The Receiver seeks approval of the accounting attached to the Receiver’s Declaration as Exhibit “1” and approval and confirmation of all actions and activities taken by or on behalf of the Receiver and all payments made by the Receiver in connection with the administration of the Receivership Estate.

1 2. Administration. The Receiver seeks authorization to take all steps necessary or
2 appropriate to complete the administration of the Receivership and its assets in accordance
3 with the relief granted in this Motion.

4 3. Establishment of Reserve for Closing Tasks. The Receiver seeks an order
5 authorizing the Receiver to establish a reserve in the amount approximately \$7,500 (the
6 “Reserve”) and to make payments from the Reserve to the Receiver, legal and tax
7 professionals, any taxing authority, and any other necessary professionals or vendors in
8 connection with those actions taken after the payment of administrative fees and expenses to
9 wind-down and close the Receivership. Any surplus Reserve remaining after the payment of
10 outstanding taxes, fees, and expenses shall be deemed abandoned.

11 4. Final Distribution. The Receiver seeks authority to make a final distribution to
12 claimants of all Receivership assets remaining after the payment of administrative fees and
13 expenses, and establishment of the Reserve, to be distributed *pro rata* to holders of Allowed
14 Claims pursuant to that Order Approving Distribution Plan entered October 5, 2020 (Dkt. No.
15 79), which is estimated to be an additional 20.6%. In connection with the final distribution,
16 the Receiver seeks authorization for: (a) all distribution checks issued on account of the final
17 distribution to holders of Allowed Claims to be required to be negotiated within 90 days of the
18 date of issuance (the “Stale Date Deadline”) and checks returned without a valid forwarding
19 address or checks uncashed after the Stale Date Deadline to be deemed void (the “Void
20 Distributions”); (b) the Receiver may, in her discretion, treat such Void Distributions as civil
21 monetary penalty payments of the Receivership Defendants and turn over to the CFTC any
22 Void Distributions pursuant to paragraph 126 of the Consent Order; and (c) an order
23 determining any Allowed Claim associated with any Void Distribution finally and forever
24 abandoned.

25 5. Abandonment of Assets. The Receiver seeks an order authorizing all assets not
26 distributed or otherwise administered by the Receiver as of the closing of the Receivership
27 Estate to be deemed abandoned. An order further authorizing abandoned assets to be destroyed
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1 or discarded, without regard to title or value, in the sole and absolute discretion of the Receiver.

2 6. Outstanding Tax Returns. The Receiver seeks authorization, by and through her
3 tax professionals, to prepare and submit any post-receivership tax returns for the Receivership
4 Entities as the Receiver deems necessary or appropriate, and payment for the Receiver's tax
5 professionals from the Reserve.

6 7. Discharge. The Receiver seeks an order discharging the Receiver and her
7 agents, employees, members, officers, independent contractors, attorneys, representatives,
8 predecessors, successors, and assignees (the "Receiver Parties"), releasing the Receiver Parties
9 from all claims and liabilities arising out of and/or pertaining to the Receivership and relieving
10 the Receiver Parties of all duties, liabilities, and responsibilities pertaining to the Receivership
11 previously established in this action, effective upon the Receiver filing a closing declaration in
12 which she attests that she has completed the final distribution as specified herein, has filed the
13 final necessary tax returns with sufficient time for a prompt assessment to be completed by the
14 Internal Revenue Service, and paid the final fees and costs of the Receivership (the "Closing
15 Declaration").

16 8. Barred Claims. The Receiver seeks an order barring any claims against the
17 Receiver and the Receivership Estate not allowed as of the filing of this Motion, including but
18 not limited to a claim by National Gold Mining Company ("National Gold"), and enjoining all
19 persons from commencing or prosecuting, without leave of the Court, any action against the
20 Receiver or her agents in connection with or arising out of the Receiver Parties' services to
21 this Court in this Receivership. The Receiver specifically seeks an order disallowing and
22 denying the National Gold Unfiled Claim and providing the Receiver with discretion without
23 further order of the Court to disallow and deny any future claim by National Gold on the basis
24 that it was filed after the Bar Date established by Order of this Court on February 6, 2020 (Dkt.
25 No. 47).

26 9. Destruction of Records. The Receiver seeks authority to abandon and destroy
27 the electronic and paper records of the Receivership Defendants and of any other corporations
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1 or businesses in the Receiver's possession, custody, or control, if, within thirty days after
2 service of written notice to the CFTC, the Receiver has not been served with a written request
3 by the CFTC for records or a subpoena by a law enforcement agency. If during such thirty-
4 day period, the Receiver is served with a written request for records by the CFTC or subpoena
5 by a law enforcement agency, the Receiver shall be authorized to turn over the original records
6 to the CFTC or a law enforcement agency in response to the request or subpoena.

7 10. Administrative Fees and Expenses. The Receiver seeks authorization of all
8 Receivership administrative fees and expenses incurred in this Receivership proceeding,
9 including the Receiver's fees and expenses and those of her professionals incurred in
10 connection with the Receivership proceeding, including those previously paid to the Receiver
11 and her counsel, all administrative expenses and the Receiver's and professionals' fees and
12 expenses incurred during the period January 1, 2024 through April 30, 2025, and all
13 administrative expenses and the Receiver's and professionals' fees and expenses incurred
14 during the period from May 1, 2025 through the closing of the Receivership Estate and the
15 discharge of the Receiver ("Final Expense Period"), described in the Final Accounting.

16 11. Jurisdiction. The Receiver seeks the Court's retention of jurisdiction for the
17 purpose of implementing and enforcing the provisions of the order on this Motion, including
18 but not limited to for the purpose of enforcing the above injunctive relief.

19 12. Closing of the Receivership. The Receiver seeks authorization to close the
20 Receivership without further order from this Court effective upon the filing of the Closing
21 Declaration.

22 The relief requested in the Motion will promote the orderly and prompt wind up of this
23 Receivership in an expeditious cost-effective manner. The relief sought is customary and
24 appropriate in closing a receivership estate.

25 This Motion is supported by this Notice of Motion, the accompanying Motion including
26 the memorandum of points and authorities contained therein, the Declarations of Kathy
27 Bazoian Phelps and Nicholas Sanchez and Exhibits filed herewith, and all the papers and files
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1 in this matter. In addition to service by ECF, the Receiver intends to serve this Notice, the
2 Motion and the supporting documents on all interested parties using a confidential email list,
3 and to post this Notice, the Motion and supporting documents on the Receivership website.
4 *See* Civil L.R. 66-6.

5 **PLEASE TAKE FURTHER NOTICE THAT** any response or opposition to the
6 Motion must be filed no later than June 3, 2025.

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8 Dated: May 20, 2025

RAINES FELDMAN LITRELL LLP

9 By: /s/ Kathy Bazoian Phelps
10 Kathy Bazoian Phelps
11 *Receiver*
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