

## Trustee's Status Report of June 1, 2016

The Chapter 7 bankruptcy case (the "Case") of Peregrine Financial Group, Inc. ("PFG") was commenced on July 10, 2012 (the "Petition Date"). Ira Bodenstein was appointed as the successor Chapter 7 trustee (the "Trustee") on July 12, 2012. On August 8, 2013, the Trustee posted his *Trustee's Status Report of August 8, 2013*, providing a description of some of the more significant tasks undertaken and completed by the Trustee and his professionals since the inception of the Case, and the Trustee's planned course of action moving forward. On September 29, 2014, the Trustee posted his *Trustee's Status Report of September 29, 2014*, providing a description of the significant tasks undertaken and completed by the Trustee and his professionals in the year since posting his first status report. On June 8, 2015, the Trustee posted his *Trustee's Status Report of June 8, 2015*, providing a description of the significant tasks undertaken and completed by the Trustee and his professionals since September 2014. In this report, the Trustee will give an overview of the tasks and goals achieved since June 2015, a current report on the financial status of the PFG bankruptcy estate (the "Estate"), and a summary of the pending and yet to be completed tasks that remain for the Estate.

### I. SIGNIFICANT TASKS ADDRESSED BY THE TRUSTEE SINCE JUNE 2015:

- a. Operating the business of the Debtor on a limited basis to, among other things, perform accounting functions, collect debit accounts, and compile the required information to file 2014 and 2015 tax returns.
- b. Fielding calls and providing responses to inquiries from customers, brokers, creditors and former employees about their respective accounts/claims and the Case in general.

- c. Prosecuting lawsuits to pursue the avoidance and recovery of transfers against numerous recipients of prepetition preferential transfers from the Debtor. The Trustee and his professionals have resolved all but one of the adversary proceedings originally filed to avoid and recover preferential transfers.
- d. Prosecuting lawsuits to pursue the avoidance and recovery of transfers against recipients of fraudulent transfers of funds from the Debtor's operating accounts or funds diverted from a PFG customer segregated account (the "Seg. Account"). The Trustee and his professionals have resolved all but four of the adversary proceedings originally filed to avoid and recover fraudulent transfers.
- e. Negotiating and entering into settlement agreements with certain transferees of preferential and fraudulent transfers, resulting in the collection and recovery of funds, including funds originally transferred from the Seg. Account. All recoveries have been deposited in the Trustee's Undesignated Funds Account, subject to further order of the Court.
- f. After seeking and being granted Bankruptcy Court approval, the Trustee made a fourth interim distribution of segregated cash to 4d claimants in the amount of approximately \$19,000,000. The bulk of the funds used for the distribution were proceeds received from the CFTC in connection with its settlement of the litigation between the CFTC and U.S. Bank National Association. This interim distribution represented a return of approximately an additional 5% to claimants with domestic futures accounts (4d) and brought the approximate total recovery to date to 49% for 4d claimants.

g. After seeking and being granted Bankruptcy Court approval, the Trustee made a fifth interim distribution of segregated cash to 4d and 30.7 claimants in the amount of approximately \$42 million. The funds for the distribution were comprised of (i) proceeds received by the Estate from the settlement with JPMorgan Chase Bank, N.A. and certain Customer Representative Plaintiffs; (ii) proceeds received by the Estate from the settlement with U.S. Bank National Association and certain Customer Representative Plaintiffs; and (iii) 4d segregated funds that the Trustee has been holding. This interim distribution represented a return of approximately an additional 11% to claimants with domestic futures accounts (4d) and brought the approximate total recovery to date to 60% for 4d claimants.

h. The following chart summarizes the distributions to date:

<b>Distribution</b>	<b>Amount Distributed (Appx.)</b>	<b>Percent Return to Account Holders</b>	<b>Total Recovery to Account Holders as of Distribution</b>
First Interim Distribution through Vision Financial	\$123,000,000	30% to domestic futures accounts (4d) 40% to foreign futures accounts (30.7)	30% to domestic futures accounts (4d) 40% to foreign futures accounts (30.7)
Second Interim Distribution	\$41,000,000	7% to domestic futures accounts (4d) 45% to foreign futures accounts (30.7)	37% to domestic futures accounts (4d) 85% to foreign futures accounts (30.7)
“Catch-Up” Distribution	\$700,000	Varied	37% to domestic futures accounts (4d) 85% to foreign futures accounts (30.7)
Third Interim Distribution	\$31,000,000	7% to domestic futures accounts (4d) 15% to foreign futures	44% to domestic futures accounts (4d) 100% to foreign futures

		accounts (30.7)	accounts (30.7)
Fourth Interim Distribution	\$19,000,000	5% to domestic futures accounts (4d)	49% to domestic futures accounts (4d)
Fifth Interim Distribution	\$42,000,000	11% to domestic futures accounts (4d)	60% to domestic futures accounts (4d)
Delivery Class Claimants	\$675,000	100% to delivery accounts	100% to delivery accounts
Forex Distribution to Claimants Who Accepted the Trustee's Settlement	\$3,445,000	30% to Forex and/or OTC Metals accounts	30% to Forex and/or OTC Metals accounts
Physical Metals Claimants Who Accepted Trustee's Settlement	\$436,000	65% to Physical metals accounts	65% to Physical metals accounts

- i. Continuing to reconcile the filed proofs of claim of claimants with either domestic or foreign futures claims with the books and records of PFG through the filing of written objections.

## II. CURRENT FINANCIAL STATUS OF THE ESTATE.

- See Cash Investment Summary as of April 30, 2016 attached as Exhibit "A".

## III. PENDING/FUTURE ITEMS TO BE ADDRESSED BY THE TRUSTEE.

- a. Pursuant to authority granted by the Bankruptcy Court, the Trustee is attempting to reach consensual resolutions with all customers who owe debit balances on their respective customer accounts. In the absence of an agreed resolution, the Trustee will be initiating litigation against customers who reside within the United States and have a debit balance in their respective customer accounts.

## IV. THE CLAIMS PROCESS AND FUTURE DISTRIBUTIONS.

- a. One of the principal remaining tasks for the Trustee is the distribution of additional funds to claimants. Over 14,000 proofs of claim asserting over \$738 million in claims have been filed. To date approximately 10,000 proofs of claim

have been reconciled and the claims pool has been reduced by approximately \$230 million. Including the initial bulk transfer through Vision Financial, there have been five distributions totaling approximately \$209 million to 4d claimants with allowed claims, and approximately \$27 million to 30.7 claimants with allowed claims. In order to make further distributions to claimants, the claims resolution process must be completed. There are currently less than fifteen (15) filed domestic and foreign futures claims which remain to be reconciled.<sup>1</sup> The Trustee is working to reconcile the remaining futures claims by the end of August 2016.

- b. The Trustee is currently holding an additional approximately \$9 million that will eventually be available to disburse to 4d claimants. Subject to the resolution of the IRS and Forex issues discussed below, the Trustee plans to request authority to make a sixth interim distribution to claimants with domestic futures accounts (4d) in the fourth quarter of 2016.
- c. There are unresolved legal issues respecting the relative priorities (the order in which they get paid) among the various classes of unpaid claimants. One of the key legal issues is the proper treatment to be afforded to the deficiency claims of domestic and foreign futures claimants and how those deficiency claims are treated relative to the claims of other classes of claimants and general unsecured creditors. These legal issues must be resolved by the Bankruptcy Court before a final distribution can be made.

## V. THE IRS EXAMINATION

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<sup>1</sup> Given the pendency of the legal issues identified in section IV.c., the Trustee has not begun a full reconciliation of the proofs of claim filed by the other classes of claimants or the general unsecured creditors.

The IRS has been examining the books and records of the company for the tax years 2007 to 2011 since shortly after the filing of the Case. On June 3, 2015 the IRS issued a Notice of Deficiency for tax years 2007 to 2011 under which it is attempting to assess the Debtor with additional gross income in excess of \$97 million as embezzlement income and a civil fraud penalty in an amount in excess of \$16 million. The Trustee retained and has been working with special tax counsel to oppose this proposed adjustment. Currently, the matter has been referred by the IRS to the U.S. Department of Justice, Tax Division, Civil Trial Section and the Trustee and his counsel have been in discussions concerning the subordination of the IRS claims to unpaid customer claims.

Recently, the receiver appointed in the CFTC case against PFG and Russell Wasendorf Sr. (the "Receiver") filed a motion to enter into a stipulation with the IRS to subordinate the IRS's claim to a distribution to the Estate. The Receiver also filed a Motion to approve a final distribution of receivership assets and all funds in the Receivership, following the payment of allowed administrative expenses, will be coming to the Estate. The Receiver's Motion was approved by the District Court, and the Estate will receive a distribution of approximately \$3 million.

## VI. FOREX LITIGATION

### a. Secured Leverage Group Litigation

The appeal of the Bankruptcy Court's ruling denying the relief requested by the Plaintiffs remains fully briefed and awaiting a ruling by the United States District Court for the Northern District of Illinois. The Trustee is currently holding approximately \$29 million subject to a ruling on the appeal.

### b. Forex Class Action

The appeal of the Bankruptcy Court's ruling dismissing the Forex Action is fully briefed and awaiting a ruling by the United States District Court Judge presiding over the Secured Leverage appeal. Additionally, on April 22, 2015, the Trustee's counsel filed a Motion for Sanctions against Plaintiffs' counsel. As of October 8, 2015, that Motion is also fully briefed and awaiting a ruling by the United States District Court Judge.