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10 Attorneys for Monitor  
 11 KRISTA L. FREITAG

12 **UNITED STATES DISTRICT COURT**  
 13 **CENTRAL DISTRICT OF CALIFORNIA**  
 14 **WESTERN DIVISION**

15 COMMODITY FUTURES TRADING  
 16 COMMISSION,

17 Plaintiff,

18 v.

19 MONEX DEPOSIT COMPANY,  
 20 MONEX CREDIT COMPANY,  
 NEWPORT SERVICE  
 21 CORPORATION, MICHAEL  
 22 CARABINI, AND LOUIS  
 CARABINI

23 Defendants.  
 24

Case No. 8:17-cv-01868-JVS-DFM

**MONITOR'S THIRD STATUS  
 REPORT AND ACCOUNTING**

Ctrm.: 10 C  
 Judge: Hon. James V. Selna

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1 TO THE HONORABLE JAMES V. SELNA JUDGE OF THE UNITED  
2 STATES DISTRICT COURT IN THE WESTERN DIVISION OF THE  
3 CENTRAL CIRCUIT, AND INTERESTED PARTIES:

4 Krista L. Freitag (“Monitor”), the Court-appointed Substitute Monitor for the  
5 Monex Restitution Fund, hereby submits this Third Status Report and Accounting.  
6 The reporting period for this report is from April 1, 2024, through August 31, 2024  
7 (the “Reporting Period “). This report reflects activities as reported by the Former  
8 Monitor (defined below) for the period from April 1, 2024 to June 25, 2024 as well  
9 as work and activities performed by the Monitor for the period from June 26, 2024  
10 through August 31, 2024.

11 **APPOINTMENT OF NEW SUBSTITUTE MONITOR**

12 On June 25, 2024, pursuant to a Joint Stipulation filed by the parties and  
13 the Order Modifying Consent Order and Appointing Substitute Monitor, the Court  
14 appointed Krista L. Freitag as the new substitute Monitor in place of Thomas  
15 Seaman Company (“Former Monitor”).

16 **STATUS OF CLAIMS PROCESS**

17 As previously reported, Thomas Seaman Company (“Former Monitor”)  
18 initiated the claims process in early December 2023 by mailing a Notice of Bar Date  
19 and a pre-populated claim form containing each investor’s qualifying net loss  
20 derived from Monex’ books and records. Mailing was completed on December 5,  
21 2023. The Notice and Claim Form were mailed to 10,313 investors with losses in  
22 the aggregate amount of \$448,715,546. The Former Monitor also emailed the  
23 Notice and Claim Form to 9,730 investors.

24 Based on the large number of undeliverable notices and emails, and receipt of  
25 claims from approximately 40% of the 10,313 investors, the Former Monitor  
26 extended the Bar Date from February 3, 2024 to March 29, 2024 to allow for  
27 additional efforts including airing notices on television, expanded search engine  
28 optimization and expanded social media campaigns to reach claimants. The Former

1 Monitor then decided to extend the Bar Date for one short additional extension to  
2 April 15, 2024 to allow time for the additional social media campaigns and digital  
3 advertising to reach more claimants. The final claim results will be reported by the  
4 Monitor in her forthcoming motion for an order approving claims and a distribution  
5 plan.

6 The Former Monitor and his team processed the majority of the claims  
7 received and commenced reviewing/reconciling/responding to the disputed claims,  
8 which were reported to total approximately 120. As of the date of this report, the  
9 Monitor and her staff are working to (a) complete the motion to approve the claims  
10 and distribution plan and (b) verify payee changes made during the Former  
11 Monitor's execution of the claims process (e.g., ensuring proper legal paperwork  
12 was obtained in the event of divorce, death, entity dissolution, trust changes, etc.).  
13 For example, the Monitor is ensuring death certificates and associated beneficiary  
14 paperwork have been obtained and reviewed if a payee name changed as a result of  
15 a reportedly deceased claimant. The Monitor and her staff have otherwise  
16 completed processing the claims and have reconciled and completed all disputed  
17 claim responses; only 12 disputed claims remain unresolved as of the date of this  
18 report.<sup>1</sup>

### 19 ACCOUNTING

20 Attached hereto as **Exhibit A** are a *cash basis* Balance Sheet and a Profit &  
21 Loss Statement, which respectively reflect the cash balance at the end of the Third  
22 Reporting Period and the receipts and disbursement activities during the Third  
23 Reporting Period. Cash receipts totaled \$315,436.26 and were entirely comprised of  
24 interest income. Disbursements, which were all incurred during the Former  
25 Monitor's tenure, include Court-approved payments of \$263,987.00 to the Former  
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27 <sup>1</sup> The Monitor intends to continue to work for a short period of time towards  
28 resolution of as many of the remaining disputed claims as possible as she works  
to complete the motion for approval of claims and a distribution plan, which she  
intends to file in the near term.

1 Monitor, \$1,831.50 to Parr Brown Gee & Loveless, the former attorneys for the  
 2 Former Monitor, \$8,030.25 to Allen Matkins for legal services, and \$109,625.13 to  
 3 Stretto for claim administration logistics and support. Disbursements also include  
 4 \$1,760.00 for IT services. As of August 31, 2024, the Restitution Fund cash balance  
 5 was \$33,274,001.47.

6 The following chart shows the *cash basis* receipts and disbursements from  
 7 inception of the case through August 31, 2024 broken out by reporting periods:

	1 <sup>st</sup> Status Report April to Dec. '23	2 <sup>nd</sup> Status Report Jan. to March '24	3 <sup>rd</sup> Status Report April to Aug. '24	TOTAL
<b>Beginning Balance</b>	\$ 33,000,000	\$ 33,503,629	\$ 33,343,787	\$ 33,000,000
Interest Income	\$ 503,629	\$ 187,635	\$ 315,436	\$ 1,006,700
<b>Expenses Paid:</b>				
Claims Admin Fees (Stretto)		(\$ 98,910)	(\$ 109,625)	(\$ 208,535)
Tax Accountants		(\$ 2,921)		(\$ 2,921)
Legal Fees			(\$ 9,862)	(\$ 9,862)
Monitor Fees		(\$ 87,900)	(\$ 263,987)	(\$ 351,887)
Public Outreach		(\$ 156,900)	\$ 13	(\$ 156,887)
IT Expenses			(\$ 1,760)	(\$ 1,760)
Office Supplies		(\$ 45)		(\$ 45)
Taxes <sup>2</sup>		(\$ 800)		(\$ 800)
<b>Total Expenses</b>		<b>(\$ 347,477)</b>	<b>(\$ 385,221)</b>	<b>(\$ 732,698)</b>
<b>Ending Balance</b>	<b>\$ 33,503,629</b>	<b>\$ 33,343,787</b>	<b>\$ 33,274,002</b>	<b>\$ 33,274,002</b>

28 <sup>2</sup> The Restitution Fund incurred 2023 income tax liability in the amount of \$147,365, which was paid in September 2024 and thus is not reflected herein.

1 Dated: October 7, 2024

Respectfully submitted,

KRISTA L. FREITAG

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By: 

KRISTA L. FREITAG  
Monitor for the MONEX  
RESTITUTION FUND

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7 Dated: October 7, 2024

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

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By:           /s/Edward G. Fates          

EDWARD G. FATES  
Attorneys for Monitor  
KRISTA L. FREITAG

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# EXHIBIT A

8:18 AM  
09/25/24  
Cash Basis

**Monex Restitution Fund**  
**Balance Sheet**  
As of August 31, 2024

	<u>Aug 31, 24</u>
<b>ASSETS</b>	
<b>Current Assets</b>	
Checking/Savings	
Western Alliance	33,274,001.47
<b>Total Checking/Savings</b>	<u>33,274,001.47</u>
<b>Total Current Assets</b>	<u>33,274,001.47</u>
<b>TOTAL ASSETS</b>	<u><u>33,274,001.47</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Equity</b>	
Retained Earnings	33,503,627.79
Net Income	-229,626.32
<b>Total Equity</b>	<u>33,274,001.47</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>33,274,001.47</u></u>

8:24 AM  
09/25/24  
Cash Basis

**Monex Restitution Fund**  
**Profit & Loss**  
April through August 2024

	<u>Apr - Aug 24</u>
<b>Income</b>	
Interest Income	315,436.26
<b>Total Income</b>	<u>315,436.26</u>
<b>Expense</b>	
Computer / IT Services	1,760.00
Professional Fees	
Claims Administrator Fees	109,625.13
Legal Fees	9,861.75
Monitor Fees	263,987.00
<b>Total Professional Fees</b>	<u>383,473.88</u>
Public Outreach	-13.00
<b>Total Expense</b>	<u>385,220.88</u>
<b>Net Income</b>	<u><u>-69,784.62</u></u>