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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT CALIFORNIA
SOUTHERN DIVISION**

COMMODITY FUTURES
TRADING COMMISSION
Plaintiff,

vs.

MONEX DEPOSIT COMPANY,
MONEX CREDIT COMPANY,
NEWPORT SERVICE
CORPORATION, MICHAEL
CARABINI, AND LOUIS
CARABINI
Defendants.

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

Hon. James V. Selna
Dept. 10C

**ORDER MODIFYING CONSENT ORDER AND APPOINTING
SUBSTITUTE MONITOR**

On December 19, 2022, the Court entered a Consent Order resolving Plaintiff Commodity Futures Trading Commission’s (“CFTC”) amended complaint against Monex Credit Company, Monex Deposit Company, Newport Service Corporation, Michael Carabini, and Louis Carabini (collectively, “Defendants”). (Dkt. 416.) As part of the Consent Order, the Court appointed National Futures Association (“NFA”) as Monitor to receive restitution payments from Defendants and to distribute those funds to eligible claimants. Id. at §V, A, Paragraph 60. Defendants have transferred \$33 million to satisfy

1 the Restitution Obligation to NFA, which is holding those funds in an account for the
2 benefit of Monex customers (“Restitution Fund”).

3 Pursuant to the Joint Stipulation filed by the parties, the undersigned finds good
4 cause to appoint Thomas Seaman Company (“Seaman”) as substitute monitor for purposes
5 of administering the Restitution Fund.

6 IT IS THEREFORE ORDERED:

7 1. The Court hereby Amends Paragraph 60 of the Consent Order and appoints
8 Thomas Seaman Company (“Seaman”) as Substitute Monitor (“Substitute Monitor”).
9 National Futures Association shall transfer custody of the Restitution Fund to the Substitute
10 Monitor which shall make distributions as required by the Consent Order. All references
11 to the “Monitor” in the Consent Order, and in particular paragraphs 62-64 of the Consent
12 Order, shall now refer to the Substitute Monitor. Once the Restitution Fund is transferred,
13 National Futures Association shall have no further obligations in connection with the
14 Consent Order.

15 2. The Substitute Monitor and all personnel hired by the Substitute Monitor as
16 herein authorized, including counsel to the Substitute Monitor, are entitled to reasonable
17 compensation for the performance of duties pursuant to this Order and for the cost of actual
18 out-of-pocket expenses incurred by them for those services authorized by this Order that
19 when rendered were necessary to the administration of the Restitution Fund in accordance
20 with the Substitute Monitor’s Proposal attached hereto as Exhibit A. However, the
21 Substitute Monitor and any personnel hired by the Substitute Monitor shall not be
22 compensated or reimbursed by, or otherwise be entitled to, any funds from the Court or the
23 Commission. The Substitute Monitor shall file with the Court and serve on the parties
24 periodic requests for the payment of such reasonable compensation, with the first such
25 request filed no more than 90 days after the date of this Order and subsequent requests filed
26 quarterly thereafter. The requests for compensation shall itemize the time and nature of
27 services rendered by the Substitute Monitor and all personnel hired by the Substitute
28 Monitor. In advance of submitting the request for compensation with the Court, the
29 Substitute Monitor shall provide copies of the request to all Parties for review and comment

1 five business days before the request is submitted to the Court. If any Party objects to any
2 request for compensation submitted by the Substitute Monitor, they shall file an Objection
3 setting forth the reason(s) for their objection within five (5) business days of the Substitute
4 Monitor's filing of its request.

5 3. Except as hereby amended, the Consent Order remains unchanged and in
6 effect.

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8 IT IS SO ORDERED on this 3rd day of April, 2023.

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14 JAMES V. SELNA

15 UNITED STATES DISTRICT JUDGE
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