

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re  MF GLOBAL HOLDINGS, LTD.; MF GLOBAL FINANCE USA, INC., <i>et al.</i> ,  Debtors.	Chapter 11  Case No. 11-15059 (MG)  Case No. 11-15058 (MG)  Case No. 11-02790 (MG) SIPA  (Jointly Administered)
TODD THIELMANN, <i>et al.</i> ,  Plaintiffs,  v.  MF GLOBAL HOLDINGS, LTD., <i>et al.</i> ,  Defendants.	Adv. Pro. No. 11-02880 (MG)

**CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER**

This Stipulation (the “Stipulation” or “Protective Order”) is entered into by and between the undersigned counsel, acting for and on behalf of their respective clients: (a) MF Global Finance USA, Inc., MF Global Holdings, Ltd., and MF Global Holdings USA, Inc. (“MF Global”); and (b) Todd Thielmann, Pierre-Yvan Desparois, Natalie Sivova, Sandy Glover-Bowles and Arton Sina (“Plaintiffs” and, together with MF Global, the “Parties” and each a “Party”).

WHEREAS, on November 14, 2011, and as amended on December 12, 2011, Plaintiffs commenced an adversary case under the Worker Adjustment and Retraining Notification Act (“WARN Act”), 29 U.S.C. § 2101, et seq., New York Labor Laws et seq. (“NY WARN Act”)

(together the “WARN Acts”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court” or “Court”), Dkt. Nos. 1 and 4;

WHEREAS, on November 26, 2012, Plaintiffs filed a Second Amended Class Action Adversary Proceeding, Dkt. No. 64 (the “WARN Act Action”);

WHEREAS, the Parties expect to exchange relevant documents and other materials in the course of litigation (“Discovery Materials” are all such documents and information shared between the parties in this litigation);

WHEREAS, the Parties have agreed that certain Discovery Materials be subject to a protective order, pursuant to Federal Rule of Bankruptcy Procedure 7026, and Federal Rule of Civil Procedure 26 incorporated therein, to protect the confidentiality of sensitive information; and

WHEREAS, the Parties have entered into this Stipulation and agreed to be bound by its terms;

**NOW THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND IT IS ORDERED THAT:**

1. Confidential Information. Any Party or third party producing documents (the “Producing Party”) to any Party (the “Receiving Party”) pursuant to a document request or subpoena may designate as “Confidential” that portion of the Discovery Materials that it in good faith believes meets any of the criteria below, provided that Confidential information shall not include: information that is publicly available in substantially the same form in which it was provided; information that was, is or becomes public knowledge, not in violation of this Protective Order; information that is voluntarily de-designated by the Producing Party; information rightfully acquired from an independent source without restrictions as to use; or

information that is at any time independently developed by a Party without use of or reliance upon any Discovery Materials. Subject to these conditions and limitations, any Producing Party may designate as “Confidential” any information that the Producing Party reasonably believes in good faith as of the date of production contains or constitutes: (a) non-public personal information; (b) information that is commercially sensitive, including, without limitation, research or business development; (c) information kept confidential pursuant to law or regulation; or (d) information reasonably likely to cause undue harm to the reputation of, or embarrassment to, any individual (all information designated as such, including the document itself as well as the information therein, the “Confidential Discovery Material”).

2. Highly Confidential Information. Any Producing Party may designate as “Highly Confidential” that portion of the Discovery Materials that it in good faith believes meets any of the criteria below, provided that “Highly Confidential” information shall not include: information that is publicly available in substantially the same form in which it was provided; information that was, is or becomes public knowledge, not in violation of this Protective Order; information that is voluntarily de-designated by the Producing Party; information rightfully acquired from an independent source without restrictions as to use; or information that is at any time independently developed by a Party without use of or reliance upon any Discovery Materials. Subject to these conditions and limitations, any Producing Party may designate as “Highly Confidential” any information that the Producing Party reasonably believes in good faith contains or constitutes (a) non-public proprietary information about a Party or its parents, subsidiaries and affiliates, (b) non-public proprietary information about clients or customers of the Producing Party, other than information about Parties to this WARN Act Action and their parents, subsidiaries and affiliates, including the banking activity of such clients or customers,

(c) any information protected from public disclosure pursuant to the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 *et seq.*, or any other or similar state or federal law regarding the protection of private customer information, and (d) any trade secret (all information designated as such, including the document itself as well as the information therein, the “Highly Confidential Discovery Material”).

3. Designation of Documents. A Producing Party may designate Discovery Materials as Confidential Discovery Material by applying the legend “Confidential” to each page containing any Confidential Discovery Material. A Producing Party may designate Discovery Materials as Highly Confidential Discovery Material by applying the legend “Highly Confidential” to each page containing any Highly Confidential Discovery Material. In the case of electronically stored information, the “Confidential” or “Highly Confidential” legend, if any, shall be printed on the cover or container of the disk, tape, or other medium in which the electronic form data is stored, and the “Confidential” or “Highly Confidential” legend shall be applied, by electronic means to each electronic document or other electronically stored information containing any Confidential or Highly Confidential Discovery Materials. The failure to designate a document as “Confidential” or “Highly Confidential” does not constitute a waiver of such claim, and a Producing Party may so designate a document after such document has been produced in accordance with paragraph 9, with the effect that such document is subject thereafter to the protections of this Stipulation. In the case of deposition transcripts, all transcripts will be treated in the same manner as Highly Confidential Discovery Material for a period of 30 days following the deposition. Within that 30-day period, the Party who defended the deposition or otherwise controls the confidentiality of the testimony (the “Defending Party”) will send the other Parties a letter designating the portions of the transcript that are Highly

Confidential or Confidential or stating that the entirety of the transcript is non-confidential (a “Designation Letter”). If the Defending Party fails to send a Designation Letter within the 30-day period following the deposition, anytime thereafter a Party may notify the Defending Party in writing that it failed to send a Designation Letter. The Defending Party shall have 3 business days, or alternatively, a mutually agreed upon date in excess of 3 business days, upon receipt of such written notice (the “Cure Period”) to send a Designation Letter to the other Parties. The transcript will be treated as Highly Confidential from the date of the deposition until receipt of the Designation Letter or expiration of the Cure Period, whichever occurs first. If the Defending Party fails to send a Designation Letter prior to the expiration of the Cure Period, the transcript will be treated as non-confidential pursuant to the terms of this Stipulation. The failure to designate a portion of a transcript as “Confidential” or “Highly Confidential” does not constitute a waiver of such claim, and a Defending Party may so designate testimony at a later date, with the effect that such testimony is subject thereafter to the protections of this Stipulation.

4. Treatment of Highly Confidential Information. Any information designated as “Highly Confidential Discovery Material” shall be maintained in confidence by any Receiving Party and shall be stored under the direct control of counsel of record who shall be responsible for preventing any disclosure not in accordance with this Stipulation. Provided that disclosure is not otherwise prohibited by this Stipulation, and that prior to receipt a Non-Disclosure Declaration in the form annexed as an Exhibit hereto is executed by the Receiving Party, Highly Confidential Discovery Material shall only be disclosed to (a) current employees, officers, or directors of the Party designating the information as Highly Confidential Discovery Material; (b) former employees, officers or directors of the Party designating the information as Highly Confidential Discovery Material, provided that counsel has a good-faith basis for believing that

such former employees, officers or directors had access to or knowledge of the Highly Confidential Discovery Material when they were current employees of the designating Party, and provided that counsel ascertain as soon as practicable whether such former employees, officers or directors had such access, and provided that upon the first indication that such former employees, officers or directors did not have such access, counsel must immediately refrain from any further disclosure to such former employees, officers or directors; (c) counsel for the Parties to the WARN Act Action, regardless of whether such outside counsel has appeared as counsel of record in this WARN Act Action; (d) in-house counsel of a Party, provided that such in-house counsel is being provided the information solely for the purpose of rendering legal advice in this WARN Act Action; (e) legal assistants, secretaries, staff or agents and consultants working with or for counsel referenced in (c) or (d) in connection with the WARN Act Action; (f) litigation support services, including outside copying services; (g) persons expected to be deponents, trial witnesses and hearing witnesses in the WARN Act Action and counsel to such persons, provided that counsel has a good-faith basis for believing that such witnesses had access to or knowledge of the Highly Confidential Discovery Material, and provided that counsel ascertain as soon as practicable whether such witnesses had such access or knowledge, and provided that upon the first indication that such witnesses did not have such access or knowledge, counsel must immediately refrain from any further disclosure to such witnesses; (h) any person identified as an author of a document, or any person to whom a copy of such document was sent prior to its production in the WARN Act Action; (i) court officials involved in the WARN Act Action; (j) court reporting personnel involved in taking or transcribing testimony in the WARN Act Action; (k) any mediator or arbitrator engaged by the Parties to the WARN Act Action, or appointed by the Court; and (l) outside consultants, financial advisors or experts retained, or current MF

Global employees or directors consulted, for the purpose of assisting outside counsel of record who has appeared in this action, provided that they comply with the requirements of paragraph 11.

5. Treatment of Confidential Information. Any information designated as “Confidential Discovery Material” shall be maintained in confidence by any Receiving Party and shall be stored under the direct control of counsel of record who shall be responsible for preventing any disclosure not in accordance with this Stipulation. Provided that disclosure is not otherwise prohibited by this Stipulation, Confidential Discovery Material shall only be disclosed to (a) Parties or persons to whom Highly Confidential Discovery Material may be disclosed as set forth in paragraph 4; (b) current and former employees, officers, or directors of MF Global, or any party that joins or is joined to the WARN Act Action that has satisfied the requirements of paragraph 13, provided that disclosure is reasonably necessary to the WARN Act Action; and (c) persons expected to be deponents, trial witnesses, and hearing witnesses in the WARN Act Action and counsel to such persons.

6. Permitted Purposes. All Discovery Materials disclosed in this WARN Act Action (except such materials publicly available in substantially the same form), whether or not containing Confidential or Highly Confidential Discovery Materials, shall be used solely in connection with this WARN Act Action (including appeals, retrials, counterclaims or crossclaims). Discovery Materials produced in this WARN Act Action may not otherwise be used in connection with any other litigation, judicial or regulatory proceeding or for any business, commercial, competitive, personal or other purpose, but nothing in this Stipulation will prevent the Parties from agreeing to deem any Discovery Materials as produced in other litigations or proceedings or, absent such agreement, from seeking the production of such

materials in other litigations or proceedings including, for example, by issuing a subpoena to the Producing Party and/or moving to compel the production of such materials. Any summary, compilation, notes, memoranda, analysis, or copy containing Confidential or Highly Confidential Discovery Material, and any electronic image or database containing Confidential or Highly Confidential Discovery Material shall be subject to the terms of the Protective Order to the same extent as the material or information from which such summary, compilation, notes, copy, memoranda, analysis, electronic image or database is derived.

7. Court Filings. In the event that Counsel for any Party determines in his or her sole discretion that it is necessary to file with the Court any document or other Discovery Material that contains, refers to, attaches or encloses Confidential or Highly Confidential Material, the Party who files any document or other material that contains, refers to, attaches or encloses Confidential or Highly Confidential Material with the Court shall make such filing under seal in accordance with Judge Glenn's Chambers' Rules regarding filings under seal.

8. Compelled Disclosure. Notwithstanding the foregoing, solely in the event that a Receiving Party is requested or required (through discovery, subpoena, civil investigative demand, or other similar legal or investigative process) to disclose any of the Confidential or Highly Confidential Discovery Material, the Receiving Party shall provide the Producing Party with prompt written notice of any such request or requirement so that the Producing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Stipulation in respect of such request or requirement. If, in the absence of a protective order or other remedy or the receipt of a waiver by the Producing Party, a Receiving Party is nonetheless, in the opinion of its counsel, legally compelled to disclose such Confidential or Highly Confidential Discovery Material or else stand liable for contempt or suffer other censure

or significant penalty, the Receiving Party may, without liability under this Stipulation, disclose only that portion of the Confidential or Highly Confidential Discovery Material which its counsel advises it is legally required to be disclosed, provided that the Receiving Party exercises its commercially reasonable efforts to preserve the confidentiality of the Confidential or Highly Confidential Discovery Material, including, without limitation, by taking commercially reasonable measures to cooperate with the Producing Party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential or Highly Confidential Discovery Material by the party to whom such material will be produced, and then only with as much prior written notice to the Producing Party as is practical under the circumstances. In no event will a Receiving Party oppose action by a Producing Party to obtain a protective order or other relief to prevent the disclosure of the Confidential or Highly Confidential Discovery Material or to obtain reliable assurance that confidential treatment will be afforded the Confidential or Highly Confidential Discovery Material.

9. No Waiver. Neither this Stipulation nor disclosure of any Confidential or Highly Confidential Discovery Material by a Producing Party shall be deemed by implication or otherwise to vest in the Receiving Party rights in or to such Confidential or Highly Confidential Discovery Material other than the right to use such Confidential or Highly Confidential Discovery Material solely in accordance with this Stipulation. It is understood and agreed by the Parties that no failure or delay by a Producing Party in exercising any right, power, or privilege pursuant to this Stipulation shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege pursuant to this Stipulation. If at any time a Producing Party determines or realizes that certain testimony or some portion(s) of Discovery Materials that it previously produced

should be designated as “Confidential” or “Highly Confidential,” the Producing Party may apprise the Parties in writing, and such designated testimony or portion(s) of Discovery Materials will thereafter be treated as Confidential or Highly Confidential Discovery Materials under the terms of this Stipulation, provided, however, that the Producing Party shall, at its cost, provide the Receiving Party with substitute copies, bearing the legend “Confidential” or “Highly Confidential,” of any such Discovery Materials at which time the Receiving Party shall promptly return to the Producing Party the copies of such substituted Discovery Materials. Entry into this Stipulation and/or producing Confidential or Highly Confidential Discovery Material pursuant hereto shall not prejudice in any way a Producing Party’s rights to object to the authenticity or admissibility into evidence of any testimony or other evidence subject hereto.

10. Objections to Designation. In the event a Receiving Party objects to any designation of testimony or Discovery Materials as “Confidential” or “Highly Confidential,” the Receiving Party shall so inform the Producing Party, stating the grounds of the objection, and they shall have five (5) business days to attempt to resolve the objection, at the end of which the Receiving Party may seek a ruling from the Court, on no less than five (5) business days’ notice to the Producing Party, that such information should not be treated as Confidential or Highly Confidential Discovery Material, provided that no Confidential or Highly Confidential Discovery Material shall be filed in the public record prior to such a determination by the Court, and provided further that the burden shall be on the Producing Party to justify the claim that disputed material has been properly designated. Notwithstanding a Producing Party’s designation of Discovery Materials as “Confidential” or “Highly Confidential,” nothing in this Stipulation shall limit any third party’s right to challenge such designation in the Court or any other court of competent jurisdiction.

11. Use by any Professional Firm or Individual Retained in Connection with the WARN Act Action. Counsel for the Party retaining any professional firm or individual, including outside consultants, financial advisors, or experts (collectively, the “Permitted Recipients,” and each a “Permitted Recipient”), shall provide a copy of this Stipulation to the Permitted Recipient or a representative of the Permitted Recipient, and the Permitted Recipient or a representative of the Permitted Recipient must execute a Non-Disclosure Declaration in the form annexed as an Exhibit hereto prior to the Permitted Recipient receiving any Confidential or Highly Confidential Discovery Material.

12. Additional Parties. In the event an additional party joins or is joined in the WARN Act Action, it shall not have access to Confidential or Highly Confidential Discovery Material until the newly-joined party has itself, or by its counsel has executed and filed with the Court its agreement to be fully bound by this Stipulation.

13. Third Party Beneficiaries. Third parties that produce documents pursuant to a subpoena or otherwise respond to discovery requests in the WARN Act Action are intended third-party beneficiaries of this Stipulation and have the right to enforce the terms of this Stipulation, as necessary to, *inter alia*, protect the confidentiality of the Confidential or Highly Confidential Discovery Materials they produce.

14. Enforcement Pending Entry. The Parties agree to be bound by the terms of this Stipulation pending the entry of this Stipulation by the Court, and any violation of its terms shall be subject to the same sanctions and penalties as if this Stipulation has been entered by the Court. The provisions of this Stipulation shall, absent written permission of the Producing Party or further order of the Court, continue to be binding throughout and after the conclusion of the Objection, including without limitation any appeals therefrom.

15. Disposition of Confidential and Highly Confidential Discovery Material. Within sixty (60) days after receiving notice of the entry of an order, judgment, or decree finally disposing of or resolving all Objections among the Parties hereto arising out of or relating to the WARN Act Action, including the exhaustion of all possible appeals and other review, all persons having received Confidential or Highly Confidential Discovery Material shall either return such material and all copies thereof (including summaries and excerpts) to the Producing Parties or destroy all such Confidential or Highly Confidential Discovery Material and certify that fact to the Producing Parties. Documents that have been received electronically and that cannot be returned or destroyed must be electronically deleted and deleted from “trash” files. This paragraph 15 applies to Confidential or Highly Confidential Discovery Material only, and does not require that counsel for the Parties destroy work product or correspondence.

[Signature page follows]

Dated: March 6, 2015

KLEHR HARRISON HARVEY BRANZBURG LLP MORRISON & FOERSTER LLP

/s/ Charles A. Ercole  
Charles A. Ercole  
Jeffrey Kurtzman  
Kathryn E. Perkins  
1835 Market St. Suite 1400  
Philadelphia, PA 19103  
Telephone: (215) 569-4282  
Facsimile: (215) 568-6603  
cercole@klehr.com  
jkurtzma@klehr.com  
kperkins@klehr.com

*Attorneys for Plaintiff*

/s/ James J. Beha II  
Brett H. Miller  
Melissa A. Hager  
James J. Beha II  
250 West 55th Street  
New York, NY 10019  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900  
brettmiller@mofocom  
mhager@mofocom  
jbeha@mofocom

*Attorneys for MF Global Finance USA, Inc.,  
MF Global Holdings, Ltd., and MF Global  
Holdings USA, Inc.*

**IT IS SO ORDERED.**

Dated: March 12, 2015  
New York, New York

/s/Martin Glenn  
MARTIN GLENN  
United States Bankruptcy Judge

EXHIBIT

NON-DISCLOSURE DECLARATION

I, \_\_\_\_\_, declare under penalty of perjury, the following:

I reside at \_\_\_\_\_ in the City/ County of  
\_\_\_\_\_ and State of \_\_\_\_\_;

I have read the annexed Confidentiality Stipulation and Protective Order Between (a) MF Global Finance USA, Inc., MF Global Holdings, Ltd., and MF Global Holdings USA, Inc. (“MF Global”); and (b) Todd Thielmann, Pierre-Yvan Desparois, Natalie Sivova, Sandy Glover-Bowles and Arton Sina, Individually, and on behalf of all other similarly situated former employees, dated \_\_\_\_\_, 2015, in the matter entitled *Todd Thielmann et al. v. MF Global Holdings Ltd. et al.*, No. 11-02880 (MG) which is pending in the United States Bankruptcy Court for the Southern District of New York;

I am fully familiar with and agree to comply with and be bound by the provisions of that Protective Order and consent to the jurisdiction of the United States Bankruptcy Court for the Southern District of New York; and

I will not divulge to persons other than those specifically authorized by the Protective Order, and will not copy or use, except solely for the purpose of this WARN Act Action (as defined in the Protective Order), any information designated as “Confidential” or “Highly Confidential.”

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: \_\_\_\_\_