

Mark Schlachet
3637 South Green Road, 2d Floor
Cleveland, Ohio 44122
P: (216) 896-0714
F: (216)514-6406
mschlachet@gmail.com

Attorney for Sangani Family LP

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X	
In re:	:
	:
MF GLOBAL HOLDINGS LTD., et al.	: Case No. 11-15059 (MG)
	:
Chapter 11 Debtors.	: (Jointly Administered)
-----X	

**COMMENTS IN SUPPORT OF MOTION OF SAPERE WEALTH
MANAGEMENT LLC, GRANITE ASSET MANAGEMENT AND
SAPERE CTA FUND, L.P. TO DIRECT THE DEBTORS' ESTATE
TO BE ADMINISTERED PURSUANT TO 11 U.S.C. §§ 761-767 AND
17 C.F.R. § 190**

Now comes Sangani Family LP, a creditor of the Debtor, and provides the following initial comments (a) in general support of the Motion of Sapere Wealth Management LLC, Granite Asset Management and the Sapere CTA Fund, L.P. to Direct the Debtors' Estate to be Administered Pursuant to 11 U.S.C. §§ 761-767 and 17 C.F.R. 190 (Dkt. No. 217), and (b) in response to the following documents filed on January 12, 2012:

Doc 341: TRUSTEE'S OBJECTION TO THE MOTION OF SAPERE WEALTH MANAGEMENT LLC, GRANITE ASSET MANAGEMENT AND SAPERE CTA FUND, L.P. TO DIRECT THE DEBTORS' ESTATE TO BE ADMINISTERED PURSUANT TO 11 U.S.C. §§ 761-767 AND 17 C.F.R. § 190

Doc 342: MEMORANDUM OF THE COMMODITY FUTURES TRADING COMMISSION IN RESPONSE TO THE MOTION BY SAPERE WEALTH MANAGEMENT, LLC, et al., TO DIRECT THE DEBTORS' ESTATE TO BE ADMINISTERED PURSUANT TO 11 U.S.C. §§ 761-767 AND 17 C.F.R. § 190

1. The bulk of MF Global, Inc.'s ("MFGI") business was that of a Futures Commission Merchant ("FCM") regulated by the Commodities Futures Trading Commission ("CFTC"), but MFGI was also a broker-dealer ("B-D") regulated by the Securities and Exchange Commission ("SEC"). Because MFGI falls under the regulatory regimes of two federal agencies, MFGI as a jural entity—including both its FCM business and its B-D business—is being liquidated by James Giddens, the liquidation trustee (the "Trustee") appointed by the Securities Investor Protection Corporation ("SIPC") under the Securities Investors Protection Act ("SIPA"), subject to bankruptcy court supervision.
2. The Debtors ("MFGH") did not register themselves as FCMs. The Debtor, MFGH, however, exercised dominion and control over the FCM business of MFGI, doing so for its own benefit (facilitating risky bets o futures transactions involving Eurobonds of troubled

European countries) and over the segregated-account funds of commodities customers who dealt with MFGI, all to their substantial detriment when by law they should have been kept 100% whole.

3. There is good cause to believe that severe wrongdoing has occurred in the handling of funds required by statute to be segregated for the benefit of FCM clients of MFGI.
4. At the same time, little is known as to the facts of this matter in terms of the equities of various parties in interest, some of which occupy positions of knowledge and, therefore, significant advantage in pursuing their interests in this proceeding, as of this date.
5. The statutory scheme appears to favor the procedures of SIPA Liquidation as to FCM insolvencies. This legislative goal ought not be frustrated by the mere transfer of trust funds from one control group pocket to another; and this is particularly true absent opportunity for appropriate discovery and investigation.
6. This Court must weigh the need for expedition against the need to know the truth, and decide the issues accordingly. If the past is any guide to the future, it will be years before the matters raised in Sapere Wealth Management's Motion are finally resolved, e.g. *Lehman Brothers*.
7. It is fundamental in most legal systems that a thief cannot convey good title to property belonging to another. *A fortiori*, a thief may not create rights of recourse to its estate as to assets with respect to which it never had but bare possession.
8. The alleged conflicts of interest in this matter, which have yet to be explored, the control and maneuvers of those in alleged conflict, their knowledge at relevant times . . . these are critical matters

which, as a practical if not legal matter, can become quickly relegated to insignificance by hasty, precipitous rulings of the Court.

9. The fact that Sapere has diligently moved for extraordinary relief, obviously knowing that if it did not do so it would be subject to a defense of laches or the like, neither warrants deciding the motion at this time nor allowing injustice by default in not addressing the serious concerns thus raised.
10. The CFTC has favored the Court with cogent remarks as to nature and timing of actions to be taken by this court in administering this chapter 11 case; and we adopt the CFTC's remarks *in toto*.
11. MF Global Holdings has argued that, indeed, that entity can trace loans from it to MF Global, Inc. No facts as to the when, where, how much, etc. accompany those representations that, for all that is known, may have merit. MF Global Holdings argues also that technical legal issues as to the appropriate application of 17 C.F.R. 190 preclude its application here for the benefit of FCM customers. These arguments are simply not ripe for decision in light of the limited information available at this time.
12. The notion that the court needs to wait until the nature of any FCM customer shortfall is known, i.e. prior to taking or withholding action to protect FCM customers whose funds were held in trust, is a text-book example of an early-case modality of thought and action that would be hard to break. The Court should weigh, at this time and to the extent it can, the likelihood of FCM customer success on that issue, as well as the immense public policy concerns herein raised, balance of equities and irreparable harm as the case is given shape and form virtually impossible to reverse, *prior* to taking

decisive action, and all the while maintaining the status quo to the extent possible.

13. Just as one example of the above concerns: CNBC has lately reported that Mr. Corzine has told regulators that MF Global “sold” \$1.3B in short term paper to JP Morgan just before the bankruptcy filing. If true, such transaction(s) could lead to recovery of some or all of the missing money/securities from the MF Global, Inc. estate; and JP Morgan may be obligated to return some or all of such assets or their worth to the Debtor’s estate. Who shall benefit if funds are returned . . . JP Morgan or others whose receipt of such benefits may be the functional equivalent of receiving stolen securities? Why should this Court make any ruling at this time that might suggest an enhanced likelihood of treating such funds as anything other than what they are, to wit: misappropriated trust funds?¹

¹ On January 12, 2012 CNBC reported that the UK subsidiary of MFGI was holding "more than \$ 700 million" in customer funds that were transferred there by the parent shortly before the bankruptcy filing. The UK unit is now refusing to return the money. This matter should be fully understood before steps are taken which could impact the options of FCM customers.

Dated: January 13, 2012

Respectfully submitted,

/s/ Mark Schlachet
Mark Schlachet, Esq.
3637 South Green Road,
2d Floor
Cleveland, Ohio 44122
P: (216) 896-0714
F: (216)514-6406
mschlachet@gmail.com

*Attorney for Sangani
Family LP*

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of January 2012, I caused the foregoing to be served through electronic transmission via the Court's CM/ECF system to all parties who are listed on the Court's Electronic Mail Notice List.

/s/Mark Schlachet
Mark Schlachet