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VIA EMAIL TRANSMISSION

October 3, 2017

Brent J. Fields
Office of the Secretary
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Administrative Proceeding File No. 3-16757

Dear Secretary Fields:

The purpose of this submission is to provide comment on the above referenced Notice of Proposed Plan of Distribution that was filed by the staff of the U.S. Securities and Exchange Commission on September 11, 2017.

Introduction

On August 17, 2015, the U.S. Securities & Exchange Commission ("SEC") announced that an Order Instituting Administrative Cease and Desist Proceedings, Making Findings and Imposing Remedial Sanctions and a Cease and Desist Order had been entered against Citigroup Alternative Investments LLC and Citigroup Global Markets Inc. (collectively the "Respondents").

This Order stated that Respondents shall, within ten days of the entry of the Order, pay disgorgement of $139,950,239.00 and prejudgment interest of $39,612,089.00 to the SEC and that a plan of distribution shall be submitted within 120 days of payment in full by Respondents of the disgorgement and prejudgment interest ordered.

On August 20, 2015, the Respondents did, in fact, tender the required payment in the total amount of $179,562,328.00.

Notwithstanding the preceding, it was not until April 14, 2016, which was well after the referenced 120 day deadline, that the SEC even entered an Order which appointed the Garden City Group ("GCG") as the Fund Plan Administrator.

No information was provided to investors as to either any orders that extended this filing deadline or any information as to the reason for the unconscionable delays that continued to inflict harm on the investors that had been defrauded by this scheme.

In fact, it was not until September 11, 2017, which was more than *2 years* after the Respondents paid the required disgorgement and prejudgment interest, that the SEC finally issued the first Notice of Proposed Plan of Distribution.

In addition, pursuant to SEC Rule 1105(f), "[d]uring the first 10 days of each calendar quarter, or as otherwise directed by the Commission or the hearing officer, GCG, as Fund Plan Administrator, was required to have filed an accounting of all monies earned or received and all monies spent in connection with the administration of the plan of disgorgement.

Notwithstanding the preceding, as of the present date, no information has been provided to investors as to any accountings that were filed by GCG since its appointment in April of 2016.

Based on the fact that our firm represented 150 +/- investors in the Asta-Mat-Falcon funds, beginning in February of 2016, I initiated almost monthly contacts (by both telephone calls and emails) with the SEC in an attempt to ascertain the status of the fair funds process that would eventually return money to the investors that had been defrauded by this scheme.

Beginning in June of 2016, I initiated similar contacts (by both telephone calls and emails) with GCG which, again, were in an attempt to ascertain the status of the fair funds process that would eventually return money to the investors that had been defrauded by this scheme.

To state that my contacts with both the SEC and GCG were worthless does not do justice to the pattern of stonewalling and concealment that I experienced. In fact, a more appropriate description would be to state that there was an arrogant indifference and overt lack of accountability by both the SEC and GCG to the interests of investors who had been defrauded by this scheme – even after a front page article in the Sunday New York Times on January 13, 2017 exposed the same (See, *S.E.C. Inertia on Paybacks Adds to Investor Harm*, available at https://www.nytimes.com/2017/01/13/business/fair-game-gretchen-morgenson-investors-regulators-.html?_r=0) and even after several of our clients had died waiting and hoping to recover their funds.

Unfortunately, as detailed in the New York Times article, my experience with the Fair

Funds process does not appear to be unique. In fact, it is abundantly clear that the Fair Funds process, with its lack of accountability, is broken and is in desperate need of an immediate and thorough investigation by the SEC's Office of Inspector General and the appropriate Congressional Committees.

Permitting the Fox to Guard the Hen House

It defies common sense and is unconscionable that the material predicates for the Proposed Plan of Distribution are based on an apparent blind acceptance of information that has been provided by Respondents Citigroup Alternative Investments and Citigroup Global Markets.

These are the very same Respondents who were found by the SEC to have committed a massive fraudulent scheme including having made numerous "material misstatements and omissions" between 2002 and 2007 concerning the offer and sale of securities in the ASTA-MAT and Falcon funds to thousands of investors.

For example, the Proposed Plan of Distribution states that the predicate information provided by the Respondents included, but was not necessarily limited to, "capital investment information," "fee payment data" and "information regarding repayment to investors" for each of the ASTA-MAT and Falcon funds. [See, e.g., *Proposed Plan of Distribution*, at ¶¶ 4, 24, 31, 32, 37 and 42]

Unless and until there is full and fair disclosure of the specific information that has been provided by the Respondents, which information has apparently just been blindly accepted by the SEC, it is impossible for there to be any independent verification of the accuracy of that data.

Fatal Defects in the Proposed Plan of Distribution

In addition to all of the preceding, it is clear that the Proposed Plan of Distribution is a rambling and convoluted presentation that will not be understood by the average investor – perhaps by intention and/or design.

Among the most notable defects in the Proposed Plan of Distribution are the following examples:

• In paragraph 31 of the Proposed Plan of Distribution, the stated definition for the term "Total Fees Paid" is defined so as to mean, for each Potentially Eligible Fund, "the aggregate amount of *advisory fees* paid to the Respondents by the investors" with respect to that fund during the Recovery Period, based on information provided

by the Respondents. (emphasis added)

This definition, which serves as a significant predicate for the calculations that are utilized throughout the Proposed Plan of Distribution, is unacceptable in a number of material respects.

First, there is a total lack of transparency as to the "information provided by the Respondents" as to the purported "advisory fees" that were paid to the Respondents by investors with respect to each of the targeted funds.

Investors are entitled to receive specific information as to the purported advisory fees paid to each of the targeted funds, for each year of their respective tenures, so that the amounts can be independently verified.

Second, the apparent unilateral decision to only take into account the "advisory fees" that were paid by investors to the Respondents, blatantly – but inexplicably – ignores all of the other fees and costs that were paid by investors to the Respondents in connection with each of the targeted funds.

For example, the Proposed Plan of Distribution does not mention or include the substantial placement fees, transfer fees, incentive/performance fees or a variety of other fees and costs (margin loan interest, swap fees, etc.) that were, directly and/or indirectly, paid by investors to the Respondents for each of the targeted funds.

• In paragraph 34 of the Proposed Plan of Distribution, the stated definition for the term "Total Payments to Investors" is defined so as to mean, for each Potentially Eligible Fund, the "aggregation of all payments made to that fund's investors" either directly from the applicable Potentially Eligible Fund or by the Respondents in the form of (a) arbitration awards and settlements, (b) distributions from the Potentially Eligible Funds, (c) Respondents' reallocation of investment gains, (d) liquidation amounts, (e) redemptions, (f) tender offers and tender offer premiums and (g) other payments, based on information provided by the Respondents.

This definition, which again serves as a significant predicate for the calculations that are utilized throughout the Proposed Plan of Distribution, is unacceptable in a number of material respects.

First, there is a total lack of transparency as to the "information provided by the Respondents" as to the purported "payments" that were paid by the Respondents to investors with respect to each of the targeted funds.

Investors are entitled to receive specific information as to the purported payments paid by each of the targeted funds to investors, for each year of their respective tenures, so that the amounts can be independently verified.

Second, the unilateral decision to include all "arbitration awards and settlements" that were purportedly paid by each of the targeted funds to investors and all "redemptions" and "tender offers" that were purportedly received and/or accepted by investors in each of the targeted funds is clearly prejudicial to all of the investors who did not receive an arbitration award or a settlement or a tender offer or did not otherwise redeem their investments prior to their implosion in 2008.

• Finally, the "Plan of Allocation" that is appended to the Proposed Plan of Distribution under the designation of Exhibit A, states that thousands of the defrauded investors in three of the Respondents' funds (Asta/MAT, Asta/MAT 2 and Asta/MAT 3) will *not* be eligible for *any* distributions under the Proposed Plan of Distribution because the purported "Recovery Ratio" for those funds exceeded the purported "Equal Recovery Ratio" for those funds based on the faulty predicate calculations discussed above.

It is incredible that investors in those three funds, who were defrauded out of hundreds of millions of dollars and more than a decade's worth of lost interest and lost opportunity, would, after waiting more than 2 years since the disgorgement was first announced, be subjected to a system and illogical bureaucratic decision that compounded their emotional and financial losses.

It would be equally as incredible if this result was allowed to stand in view of the fact that it would clearly be inconsistent with Rule 1100 of the SEC's Rules on Fair Fund and Disgorgement Plans which states that its purpose is to "create a fund for the benefit of [all] investors who were harmed by the violation."

Conclusion

In summary, the Proposed Plan of Distribution is a nightmare for thousands of investors who wanted to believe that the SEC's mission of "investor protection" would help them to recover at least some fair and reasonable portion of their financial losses and some measure of their dignity – both of which were improperly taken by the Respondents when their scheme was uncovered and all of the funds imploded in 2008.

While the conduct of both the SEC and GCG has, unfortunately, fallen far short of both of those goals in this matter, when you consider the number of other "Fair Fund" proceedings that have been permitted to languish for years, it is evident that a systemic problem exists at the SEC which must be immediately investigated and remedied.

In the event that you should have any questions with respect to the preceding, please do not hesitate to contact me at my New York City office address stated above.

Very truly yours,

Maddox Hargett & Caruso, P.C.

s/ Steven B. Caruso

Steven B. Caruso

cc: Via First Class Mail or Hand Delivery

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