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MF Global Inc. and Thomas Gilmartin to Pay More Than \$77 Million To Settle Actions By CFTC and Receiver *ad litem*

Charges Relate to Mishandling of Brokerage Accounts of Hedge Fund Managed by Paul Eustace and Philadelphia Alternative Asset Management Company

Washington, DC – The U.S. Commodity Futures Trading Commission (CFTC) and Stephen J. Harmelin, the Receiver *ad litem* for the Philadelphia Alternative Asset Management Co. (PAAMCo), announced today that they have settled their respective actions against **MF Global Inc.** (MFG), a registered futures commission merchant, and **Thomas Gilmartin**, a registered associated person of MFG, for violations arising out of their mishandling of hedge fund accounts that were carried by MFG and managed by Paul Eustace and PAAMCo.

The CFTC simultaneously sued and settled with MFG and Gilmartin finding that they committed supervision and recordkeeping violations.

The CFTC's sanctions include civil monetary penalties against MFG and Gilmartin in the amounts of \$2 million and \$250,000, respectively, and an order that Gilmartin never apply for registration or claim exemption from registration with the CFTC in any capacity. The court also approved a settlement for the receiver *ad litem*, which requires MFG and Gilmartin to pay a total of \$75 million, consisting of \$69 million for the benefit of the receivership estate, which the receiver manages on behalf of investors in the funds traded by Eustace and PAAMCo, and \$6 million to reimburse the estate for the litigation costs of pursuing the claims against MFG and Gilmartin.

"MFG and Mr. Gilmartin have recognized that the Commission and the Courts consider failures of supervision and recordkeeping to be serious offenses that will have dramatic consequences," said CFTC Director of Enforcement Greg Mocek. "In addressing the misconduct, the Commission considered the work of the Receiver *ad litem* in this matter and the defendants' payment of \$75 million in settlement. Furthermore, this case should send notice to brokers, brokerage firms, and third-party administrators that our investigations do not stop on the doorsteps of their hedge fund clients," Mocek added.

"I appreciate the cooperation of the Commission and the efforts of Magistrate Judge David R. Strawbridge and of the Joint Liquidator Mr. Richard Fogerty in reaching this resolution," said the Receiver *ad litem*, Stephen J. Harmelin.

The CFTC's order, entered on December 26, 2007, finds that Eustace opened trading accounts at MFG and another firm for an off-shore hedge fund Eustace and PAAMCo managed known as the Philadelphia Alternative Asset Fund, Ltd. (Offshore Fund), which was registered in the Cayman Islands and had more than \$250 million in assets. According to the order, Eustace and PAAMCo concealed mounting, massive trading losses in an Offshore Fund trading account at MFG by restricting internet access to that account. Eustace and PAAMCo also backdated execution dates of certain trades executed through MFG in order to bolster the apparent profitability of the Offshore Fund. The Offshore Fund ultimately sustained net losses of approximately \$133 million in its accounts at MFG.

The order finds that MFG and Gilmartin failed to diligently supervise the handling of the Offshore Fund accounts and that they failed to respond to indications of questionable activity by Eustace. The order further finds that MFG failed to follow its procedures for opening accounts and transfers of trades and failed to provide sufficient guidance concerning potential conflicts of interest. According to the order, MFG also failed to have sufficient internal controls, policies and procedures concerning external communications with third parties and changes to internet access of account information. MFG also failed to institute sufficient internal controls, policies, and procedures to detect and deter possible wrongdoing. Lastly, the order finds that MFG and Gilmartin failed to comply with order taking and recordkeeping requirements.

Both settlements arise out of the CFTC's June 22, 2005 lawsuit charging Eustace and PAAMCo with hedge fund fraud (see CFTC Press Release 5091-05, June 29, 2005). The Commission's complaint in that matter alleges that Eustace and PAAMCo committed fraud by, among other things, providing false account statements to investors to hide trading losses in several funds they managed. The CFTC's action froze all the assets under the control of PAAMCo and Eustace and preserved more than \$70 million for return to investors. The CFTC's action also resulted in the removal of Eustace as the trader for PAAMCo and the appointment of a receiver for PAAMCo and the receiver *ad litem* who prosecuted the estate's claims against, among others, MFG and Gilmartin.

The following CFTC staff members were responsible for this case: Gretchen L. Lowe, Michael J. Otten, Glenn I. Chernigoff, Kara Mucha, Richard B. Wagner, and Vincent A. McGonagle.

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