Opening Motions Deadline: Thursday, November 21, 2019 at 5:00 p.m. (prevailing Eastern Time)
Oppositions Deadline: Tuesday, December 17, 2019 at 5:00 p.m. (prevailing Eastern Time)
Hearing Date: Tuesday, January 7, 2020 at 10:00 a.m. (prevailing Eastern Time)

JONES DAY
Christopher DiPompeo
51 Louisiana Ave., N.W.
Washington, DC 20001
Tel: (202) 879-3939
Fax: (202) 626-1700
-and-
Bruce Bennett
Jane Rue Wittstein
Furqaan Siddiqui
250 Vesey Street
New York, NY 10281
Tel: (212) 326-3939
Fax: (212) 755-7306

Counsel for MF Global Holdings Ltd.,
as Plan Administrator

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11**
MF GLOBAL HOLDINGS LTD., et al.,	:	**Case No. 11-15059 (MG)**
Debtors. [1]	:	**(Jointly Administered)**
MF GLOBAL HOLDINGS LTD., as Plan Administrator,	:	**Adv. Proc. No. 19-01379 (MG)**
Plaintiffs,	:	
vs.	:	
WILLIAM K. HARRINGTON, in his official capacity as United States Trustee for Region 2; CLIFFORD J. WHITE III, in his official capacity as Director of the United States Trustee Program; and the UNITED STATES TRUSTEE PROGRAM,	:	
Defendants.	:	

LOCAL BANKRUPTCY RULE 7056-1 STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF THE PLAN ADMINISTRATOR'S MOTION FOR SUMMARY JUDGMENT

[1] The debtors in the above-captioned cases are MF Global Holdings Ltd.; MF Global Finance USA Inc.; and MF Global Holdings USA Inc. The Court entered an order of final decree closing the chapter 11 cases of MF Global Capital LLC, MF Global FX Clear LLC, and MF Global Market Services LLC on February 11, 2016. *See* D.I. 2201.

Plaintiff MF Global Holdings Ltd. ("Holdings Ltd."), as Plan Administrator, on behalf of itself and debtors MF Global Finance USA Inc. ("Finco") and MF Global Holdings USA Inc. ("Holdings USA") (collectively, "MF Global"), submits this statement of facts as to which there is no dispute in support of MF Global's motion for summary judgment ("Motion") pursuant to Bankruptcy Rule 7056 and Local Bankruptcy Rule 7056-1 for the U.S. Bankruptcy Court for the Southern District of New York ("MFG's 7056-1 Statement"). MFG's 7056-1 Statement is supported by the accompanying (i) Declaration of Laurie Ferber, dated November 21, 2019 ("Ferber Decl."), (ii) Declaration of Wade Preston, dated November 21, 2019 ("Preston Decl."); and (iii) Declaration of Furqaan Siddiqui, dated November 21, 2019 ("Siddiqui Decl."), together with its exhibits. The Siddiqui Declaration annexes documents designated as "MFG Exhibits" which are referenced herein with the prefix "MFG Ex." followed by an individual identifying number corresponding to the MFG Exhibit number assigned in the Siddiqui Declaration. Filings in MF Global's above-captioned jointly administered chapter 11 cases, Case No. 11-15059 (MG), will be cited as "D.I. __" and filings in the above-captioned Adversary Proceeding, Adv. Proc. No. 19-01379 (MG), will be cited as "Adv. D.I. __"

I. MF GLOBAL'S CHAPTER 11 CASES AND CONFIRMED PLAN

1. On October 31, 2011 (the "Petition Date"), Holdings, Ltd. and Finco filed voluntary petitions for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code in this Court. Ferber Decl. ¶ 5.

2. On December 19, 2011, MF Global Capital LLC, MF Global FX Clear LLC, and MF Global Market Services LLC (collectively with Holdings Ltd., Finco, and Holdings USA, the "Debtors"), filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code. Ferber Decl. ¶ 6.

3. On March 2, 2012, Holdings USA filed a voluntary petition in this Court for relief under chapter 11 of the Bankruptcy Code. Ferber Decl. ¶ 7.

4. The Debtors' cases are jointly administered pursuant to Bankruptcy Rule 1015(b) under Case No. 11-15059 (MG) (D.I. 19, 298, 528). Ferber Decl. ¶ 8.

5. On November 28, 2011, December 27, 2011, and March 8, 2012, Louis J. Freeh (the "Chapter 11 Trustee") was appointed as the chapter 11 trustee for Holdings Ltd. and Finco, MF Global Capital LLC, MF Global FX Clear LLC, and MF Global Market Services LLC, and Holdings USA, respectively. (D.I. 170, 306, 548). Ferber Decl. ¶ 9.

6. On January 10, 2013, certain of MF Global's creditors (the "Creditor Plan Proponents") filed a proposed plan of liquidation and corresponding disclosure statement. (D.I. 996, 995). Ferber Decl. ¶ 10.

7. Although the Debtors' cases were consolidated for administrative purposes, each Debtor's estate was separately preserved in the proposed plan, with different Classes of the Plan providing the prescribed treatment for each Debtor's respective groups of stakeholders. Ferber Decl. ¶ 11.

8. On February 2, 2013, the Creditor Plan Proponents and Chapter 11 Trustee (together, the "Plan Proponents") filed the *Joint Plan of Liquidation Pursuant To Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Holdings USA Inc.* (D.I. 1031) (the "Joint Plan"), and a corresponding disclosure statement (D.I. 1029). Ferber Decl. ¶ 12.

9. On February 12, 2013, February 15, 2013, February 19, 2013 and February 20, 2013, the Plan Proponents filed amended versions of the Joint Plan (D.I. 1070, 1094, 1104, 1111), and corresponding amended versions of the disclosure statement (D.I. 1068, 1092, 1104, 1111). Ferber Decl. ¶ 13.

10. This Joint Plan was the product of extensive negotiations among the Creditor Plan Proponents, the Chapter 11 Trustee, and many other constituencies in the months before and after its filing. Even in the weeks leading up to confirmation, the Plan Proponents engaged in negotiation and revisions to the proposed Joint Plan to address, *inter alia,* issues concerning the treatment of "certain Intercompany Claims" which resulted in a revised settlement of those Intercompany Claims eventually embodied in the *Amended and Restated Joint Plan of Liquidation Pursuant*

to Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Holdings USA Inc. (D.I. 1382)(the "Plan") (appended as Siddiqui Decl., MFG Ex. 20). *See generally Plan Proponents' Motion To (I) Approve The Disclosure Statement Supplement, (II) Approve Expedited Solicitation Procedures With Respect To The Disclosure Statement Supplement And Plan Adjustment, And (III) Grant Related Relief* filed on March 8, 2013 (D.I. 1182) at ¶¶ 2-8; Ferber Decl. ¶ 14; Siddiqui Decl., MFG Ex. 19.

11. On April 5, 2013, the Court entered an order (D.I. 1288) (the "Confirmation Order") confirming the *Amended and Restated Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Holdings USA Inc.* Ferber Decl. ¶ 15; Siddiqui Decl., MFG Ex. 21.

12. On May 2, 2013, the Court entered an order approving certain nonmaterial modifications to the confirmed plan which are reflected in the Plan (D.I. 1376). Ferber Decl. ¶ 16.

13. The Effective Date of the Plan occurred on June 4, 2013 (D.I. 1482). Ferber Decl. ¶ 17.

14. As of the Effective Date, Holdings Ltd. became the Plan Administrator under the Plan. Ferber Decl. ¶ 18.

15. Also as of the Effective Date, pursuant to the Confirmation Order, the Chapter 11 Trustee fulfilled all of his duties under section 1106 of the Bankruptcy Code and, accordingly, was discharged from all further obligations. Ferber Decl. ¶ 19.

16. The Plan acknowledged that "the Plan constitutes a separate chapter 11 plan of liquidation for each Debtor" and each Debtor's stakeholders were assigned to a designated Class of Claims or Interest, with the treatment for each such Class provided for in the Plan. Siddiqui Decl., MFG Ex. 20, Plan at Art. III(A); Ferber Decl. ¶ 20. Holders of Allowed Claims and Interests in each Class are entitled to distributions of Available Cash in accordance with the provisions of the Plan, and the Plan Administrator is obligated to make such distributions as "quickly as reasonably practicable while limiting the costs incurred in the distribution process." Siddiqui Decl., MFG Ex. 20, Plan at Art. I.7 & VI(A)-(B)); Ferber Decl. ¶ 11.

17. The Plan expressly provided that each Debtor would pay quarterly fees due to the United States Trustee Program ("UST") under 28 U.S.C. § 1930, both before and after the Plan's Effective Date. Ferber Decl. ¶ 21.

18. The Plan acknowledged the Plan Administrator's responsibility to pay "Plan Administration Expenses," which include "any and all reasonable fees, costs and expenses incurred . . . in connection with . . . (vi) fees payable under 28 U.S.C. § 1930". *See* Siddiqui Decl., MFG Ex. 20, Plan at Art. IV(C)(xii). Ferber Decl. ¶ 21.

19. For the period post-Effective Date, the Plan provides that: "Fees payable pursuant to 28 U.S.C. § 1930 for each Debtor's Estate after the Effective Date shall be paid by the Plan Administrator . . . until the closing of the applicable Chapter 11 Case pursuant to § 350(a) of the Bankruptcy Code." Siddiqui Decl., MFG Ex. 20, Plan at Art. II.A.5; Ferber Decl. ¶ 22.

20. The Confirmation Order also requires that "the Plan Administrator and any Liquidating Trustee thereafter appointed, shall pay all fees incurred pursuant to § 1930 of title 28 of the United States Code." Siddiqui Decl., MFG Ex. 21, Confirmation Order at ¶ 95; Ferber Decl. ¶ 23.

21. As published on the UST's website, the quarterly fee schedule in effect from January 1, 2008 through December 31, 2017 (the "Pre-Amendment Fee Schedule") was as follows:

A. FEE SCHEDULE FOR CALENDAR QUARTERS BEGINNING JANUARY 1, 2008 THROUGH DECEMBER 31, 2017

TOTAL QUARTERLY DISBURSEMENTS	QUARTERLY FEE
$0 to $14,999.99	$325.00
$15,000 to $74,999.99	$650.00
$75,000 to $149,999.99	$975.00
$150,000 to $224,999.99	$1,625.00
$225,000 to $299,999.99	$1,950.00
$300,000 to $999,999.99	$4,875.00
$1,000,000 to $1,999,999.99	$6,500.00
$2,000,000 to $2,999,999.99	$9,750.00

TOTAL QUARTERLY DISBURSEMENTS	QUARTERLY FEE
$3,000,000 to $4,999,999.99	$10,400.00
$5,000,000 to $14,999,999.99	$13,000.00
$15,000,000 to $29,999,999.99	$20,000.00
$30,000,000 or more	$30,000.00

https://www.justice.gov/ust/chapter-11-quarterly-fees. Siddiqui Decl., MFG Ex. 4.

II. INCREASE IN U.S. TRUSTEE QUARTERLY FEE SCHEDULE

22. The UST is a division of the U.S. Department of Justice responsible for overseeing the administration of bankruptcy cases in 88 of the 94 judicial districts of the United States. Siddiqui Decl., MFG Ex. 5 at 1.

23. In the six judicial districts located in Alabama and North Carolina, bankruptcy cases are overseen by the Bankruptcy Administrator Program, which is part of the judicial branch and is overseen by the Administrative Office of the United States Courts (the "BA Districts"). *See generally* Siddiqui Decl., MFG Ex. 5 at 1 & MFG Ex. 6A at 11.

24. The Administrative Office of the United States Courts is supervised by the Judicial Conference of the United States. *See generally* Siddiqui Decl., MFG Ex. 6A at 11.

25. The Judicial Conference is chaired by the Chief Justice of the United States and includes as members the Chief Judge of each judicial circuit, the Chief Judge of the Court of International Trade, and a District Judge from each judicial circuit. Siddiqui Decl., MFG Ex. 6A at 1.

26. In the judicial districts operated by the UST (including the Southern District of New York) (the "UST Districts"), chapter 11 debtors are required to pay quarterly fees to the UST in accordance with 28 U.S.C. § 1930, which provides that, among other fees, a "quarterly fee shall be paid to the United States trustee, for deposit in the Treasury, in each case under chapter 11 of title 11 for each quarter (including any fraction thereof) until the case is converted or dismissed, whichever occurs first." 28 U.S.C. § 1930(a)(6)(A). *See generally* Siddiqui Decl., MFG Ex. 4.

27. The quarterly fees are based on the total quarterly "disbursements" made by the applicable debtor in each quarter. *Id*.

28. The UST website acknowledges that the Pre-Amendment Fee Schedule was in effect from January 1, 2008 – more than three years prior to the filing of MF Global's chapter 11 cases – until December 31, 2017 – more than four years after the Effective Date of MF Global's confirmed Plan. *See* Siddiqui Decl., MFG Ex. 4 ; ¶ 21, *supra;* Ferber Decl. ¶ 25.

29. Under the Pre-Amendment Fee Schedule, the maximum quarterly fee per debtor was capped at $30,000 per quarter and only applied to disbursements of $30 million or more. Ferber Decl. ¶ 26; Siddiqui Decl., MFG Ex. 4, 6B at 19.

30. The cap on fees per debtor at $30,000, with much lower fees when disbursements were less than $30 million, meant during the time period that MF Global's Plan was being negotiated, the UST fees anticipated to be payable by each Debtor could never exceed $30,000 per quarter. Ferber Decl. ¶ 27.

31. Given the $30 million threshold for imposing the highest fees, it was also clear that only certain of the Debtor's estates would ever be expected to owe fees that would reach this cap, and then almost exclusively during quarters when such Debtor made extremely large distributions to creditors. Ferber Decl. ¶ 28; Preston Decl. ¶ 17.

32. As such, during the time period when MF Global's Plan was negotiated, the magnitude of the UST fees was not a factor in structuring the Plan to maximize recoveries for the Debtors' stakeholders. Ferber Decl. ¶ 29.

33. In October 2017, Congress amended 28 U.S.C. § 1930(a)(6) to increase the quarterly fees that would be payable to the UST in chapter 11 cases for disbursements of $1 million or more during any period when the United States Trustee System Fund balance at the beginning of the then-current fiscal year was less than $200 million. *See* Bankruptcy Judgeship Act of 2017, Pub. L. No. 115-72, § 1001, 131 Stat. 1224, 1232 at §1004 (October 26, 2017) (the "Amendment"). Siddiqui Decl., MFG Ex. 1.

34. The Amendment did not state whether the Amendment was intended to apply to pending chapter 11 cases or to chapter 11 cases with plans that were confirmed prior to the Amendment's effective date. *Id*.

35. The Amendment left in place the Pre-Amendment Fee Schedule for disbursements up to $1 million. However, for any period when the United States Trustee System Fund balance at the beginning of the then-current fiscal year was less than $200 million and for disbursements of $1 million or more, the Amendment provided for debtors to pay the lesser of 1% of disbursements or $250,000 (the "Revised Fee Schedule"). *Id.; see also* Siddiqui Decl., MFG Ex. 4.

36. The Revised Fee Schedule imposes a rate of $10,000 in UST fees per million dollars in disbursements, up to a cap of $250,000 in UST fees when disbursements reach or exceed $25 million – per quarter, per debtor. *Id*.

37. The UST fees under the Pre-Amendment Fee Schedule were capped at $30,000 per quarter per debtor, achievable only when disbursements exceeded $30 million per quarter, creating a cap on any potential annual UST fee expense in any annual period per debtor of $120,000, assuming annual disbursements per debtor of over $120 million. Ferber Decl. ¶ 30.

38. Under the Revised Fee Schedule, the maximum exposure per debtor increased to $250,000 in quarterly UST fees for disbursements of at least $25 million, for an annualized exposure of $1 million in fees per debtor, assuming annual disbursements per debtor exceeding $100 million. Ferber Decl. ¶ 31.

39. The Revised Fee Schedule thus imposes maximum UST fees per debtor per quarter that are 833% of the capped fees under the Pre-Amendment Fee Schedule. Ferber Decl. ¶ 32.

40. The Amendment's provisions with respect to UST fees, which addressed only 28 U.S.C. § 1930(a)(6), did not by its express terms provide for the Revised Fee Schedule to apply in the BA Districts (*i.e.*, Alabama and North Carolina). Siddiqui Decl., MFG Exs. 1, 6B.

41. In those districts, 28 U.S.C. § 1930(a)(7) provides that "the Judicial Conference of the United States *may require* the debtor in a case under chapter 11 of title 11 to pay fees equal to those imposed by paragraph (6) of this subsection." *See* 28 U.S.C. § 1930(a)(7) (emphasis added).

42. Effective January 1, 2018, the UST began assessing the increased quarterly fees on all cases pending in UST Districts, regardless of whether the cases were commenced before or after the Amendment. Siddiqui Decl., MFG Exs. 2, 4.

43. In September 2018, the Judicial Conference of the United States decided to impose the quarterly fee increase in BA Districts, following a report from the Judicial Conference's Committee on the Administration of the Bankruptcy System. *See* Sept. 2018 Jud. Conf. U.S. Rep. 11-12, http://www.uscourts.gov/sites/default/files/2018-09_proceedings.pdf. (appended as Siddiqui Decl., MFG Ex. 6A) (the "Judicial Conference Report"); Sept. 2018 Rep. of Jud. Conf. Comm. on Admin. of Bankr. Sys. 18-20 (appended as Siddiqui Decl., MFG Ex. 6B) (the "Judicial Conference Bankruptcy Committee Report").

44. The Judicial Conference, however, applied the Revised Fee Schedule only to cases filed on or after October 1, 2018. *See* MFG Ex. 6B.

45. Consequently, for cases filed in UST Districts prior to October 1, 2018, the UST assesses quarterly fees under the new schedule provided by the Amendment, which caps fees at $250,000 per debtor. Meanwhile, for cases filed in BA Districts prior to October 1, 2018, quarterly fees are assessed under the prior schedule, which caps fees at $30,000 per debtor when disbursements exceed $30 million—a rate of less than 0.1%.

III. APPLICATION OF THE REVISED FEE SCHEDULE TO THIS CASE

46. As noted above, MF Global's Plan became effective June 4, 2013. From 2013 through the fourth quarter of 2017, MF Global paid quarterly fees on disbursements based on the Pre-Amendment Fee Schedule, *i.e.,* the version of 28 U.S.C. § 1930(a) in effect when the Plan was confirmed. Ferber Decl. ¶ 33. The total aggregate UST fees paid by the three remaining Debtors, Holdings Ltd., Finco, and Holdings USA, from the commencement of their respective chapter 11 cases through the Effective Date of the Plan was $158,775. For the post-Effective Date quarters from Q2 2013 through Q4 2017, Holding Ltd., Finco, and Holdings USA paid in the aggregate quarterly UST fees of an additional $758,925, for total UST fees paid in the aggregate through Q4 2017 for these three Debtors of $917,700. Preston Decl. ¶ 11.

47. On or about December 27, 2017, the Plan Administrator received a letter from the Executive Office for United States Trustees entitled "Notice of Revised Chapter 11 Quarterly Fee Schedule" (the "2017 UST Notice"). *See* Siddiqui Decl., MFG Ex. 2.

48. The 2017 UST Notice contained a table which was described as representing "the revised quarterly fee schedule for the calendar quarters beginning January 1, 2018 through September 30, 2018." *Id*.

49. The 2017 UST Notice made clear that, in the UST's view, fees calculated in accordance with the schedule set forth in the Amendment were due "on the last day of the calendar month following the calendar quarter for which the fee is owed." *Id.* The 2017 UST Notice also stated that "[i]nterest will be charged on unpaid quarterly fees, pursuant to 31 U.S.C. § 3717." *Id.*

50. In or about September 2018, the Plan Administrator received a letter from the Executive Office for United States Trustees entitled "Notice of Continued Application of Revised Chapter 11 Quarterly Fee Schedule" (the "2018 UST Notice"). *See* Siddiqui Decl., MFG Ex. 3.

51. The 2018 UST Notice indicated that because the "[United States Trustee System] Fund balance as of September 30, 2018 is expected to be less than $200 million, . . . the amended chapter 11 quarterly fee schedule below will continue to apply for calendar quarters beginning October 1, 2018 through September 30, 2019." *Id*.

52. Recently, the UST website confirmed that "[t]he balance in the Fund as of September 30, 2019, is projected to be less than $200 million. Accordingly, the amended chapter 11 quarterly fee schedule below is anticipated to apply for the calendar quarters beginning October 1, 2019 through September 30, 2020." Siddiqui Decl., MFG Ex. 4 (the "2019 UST Notice").

53. As directed by the UST in the 2017 UST Notice, the Plan Administrator began making payments under the fee schedule provided for in the Amendment beginning with the debtors' Q1 2018 fee payment in April 2018. Ferber Decl. ¶ 40; Preston Decl. ¶ 22.

54. The UST's directive that MF Global pay fees according to the Amendment's increased fee schedule resulted in a substantial increase in the quarterly fees payable by the Plan Administrator compared to the quarterly fee schedule that was previously in effect. Ferber Decl. ¶ 41.

55. In fact, in the five years between when MF Global's plan was confirmed and when the UST demanded that MF Global pay the higher fees, Holdings Ltd., Finco, and Holdings USA paid a combined $758,925 in fees in the aggregate. Preston Decl. ¶ 11. Yet in the very first quarter

after the UST demanded that MF Global pay fees under the Revised Fee Schedule, these same Debtors paid more than half that amount – $422,784 in combined UST fees – in a single quarter. Ferber Decl. ¶ 42; Preston Decl. ¶ 24; Siddiqui Decl., MFG Ex. 15.

56. At no time during the negotiation, development, or confirmation of MF Global's plan was there any reason to suspect that the UST fees would go from a level that was capped at $30,000 per debtor, applicable only when disbursements were at least ***$30 million*** (representing a fee of less than 0.1% of disbursements for the highest spending quarters) to a system where a 1% fee would attach for any quarter when disbursements exceeded a much lower threshold of ***$1 million.*** Ferber Decl. ¶ 43.

57. Under the Revised Fee Schedule, fees in excess of $30,000 attach whenever quarterly disbursements exceed $3 million, lowering the threshold for incurring what used to be the highest-level fee by a factor of ten. Ferber Decl. ¶ 44; Preston Decl. ¶ 16.

58. Since this change in the UST fee schedule was announced more than four years post-Confirmation and post-Effective Date, MF Global had no opportunity to structure a Plan that could have lessened the impact of these fees on its creditors (for example, by consolidating debtors). Ferber Decl. ¶ 45.

59. If the Revised UST Schedule applies to MF Global, the Excess Fees already paid and future increased fees will adversely impact the Debtors' creditors by reducing future distributions, effectively operating to reallocate funds away from the Plan's allowed claim and interest holders and to the UST. Ferber Decl. ¶ 46.

60. In a statement to Congress dated June 8, 2017, the UST acknowledged that the UST Fund was fully funded from fiscal year 1989 through fiscal year 2016; it was projected funding shortfalls during fiscal year 2017 that prompted the UST to ask Congress to increase the quarterly fees beginning in fiscal year 2018 and beyond. Siddiqui Decl., MFG Ex. 5 at 11.

61. Since the Effective Date, the Plan Administrator has been engaging in its functions under the Plan to, *inter alia*, marshal and liquidate assets and maximize value to creditors. Siddiqui Decl., MFG Ex. 20, Plan at Art. IV.(C) and V.(D); Ferber Decl. 47.

62. As is made express in the Confirmation Order, post-Effective Date, the Plan Administrator is permitted to perform its functions under the Plan "without any supervision or approval by the

Bankruptcy Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules." Siddiqui Decl,, MFG Ex. 21, Confirmation Order at ¶ 34.

63. Since the Effective Date, with the exception of the UST's review of the final professional fee applications submitted in the chapter 11 cases which were approved in Q4 2013, MF Global is not aware of any active role involving the UST with respect to the Debtors' chapter 11 cases. Ferber Decl. ¶ 48.

IV. AMOUNT OF EXCESS FEES

64. As summarized in Table 1 and detailed more fully below, *see infra* ¶¶ 68 to 73, for the first, second, third and fourth quarters of 2018 and the first two quarters of 2019, the Plan Administrator paid in the aggregate $423,785 in increased quarterly fees under the Revised Fee Schedule as compared with the fees under the Pre-Amendment Fee Schedule (the "Excess Fees").

TABLE 1: AGGREGATE EXCESS FEES PAID

Period	Disbursements	Fees Paid by MF Global	Pre-Amendment Schedule Fees	Excess Fees Paid
Q1 2018	$53,871,096	$422,784	$50,325	$372,459
Q2 2018	$2,496,970	$25,334	$13,650	$11,684
Q3 2018	$3,641,042	$36,447	$16,900	$19,547
Q4 2018	$2,959,672	$29,533	$13,650	$15,883
Q1 2019	$1,718,345	$16,562	$12,350	$4,212
Q2 2019	$1,037,194	$10,725	$10,725	$0
Total		**$541,385**	**$117,600**	**$423,785**

Ferber Decl. ¶ 49; Preston Decl. ¶ 24; Siddiqui Decl., MFG Ex. 15.

65. The figures on Table 1 are, beginning with the second column from the left: (i) the aggregate total disbursements of Holdings Ltd., Finco, and Holdings USA for the four quarters of 2018 and the first two quarters of 2019; (ii) the aggregate amount of fees actually paid by Holdings

Ltd., Finco, and Holdings USA based on their respective disbursements reported to the UST during the four quarters of 2018 and the first two quarters of 2019 using the Revised Fee Schedule in accordance with the directive in the 2017 Fee Notice; (iii) the amount of aggregate fees that would have been owed by Holdings Ltd., Finco, and Holdings USA based on their respective disbursements reported to the UST during the four quarters of 2018 and the first two quarters of 2019 using the Pre-Amendment Fee Schedule; and (iv) the mathematical calculation of the difference between the aggregate UST fees actually paid by MF Global in the four quarters of 2018 and the first two quarters of 2019 vs. the amount of fees payable if the liability of Holdings Ltd., Finco, and Holdings USA for UST fees based on their respective disbursements reported to the UST during the four quarters of 2018 and the first two quarters of 2019 had been calculated using the Pre-Amendment Fee Schedule. Preston Decl. ¶ 25.

66. A chart that breaks down the fees actually paid versus the fees as calculated under the Pre-Amendment Fee Schedule by Debtor for these same quarters is set forth herein as Table 2:

TABLE 2: SUMMARY OF FEES PAID BY DEBTOR UNDER REVISED FEE SCHEDULE VS. PAYMENTS DUE UNDER PRE-AMENDMENT FEE SCHEDULE

2018

	Q1			Q2		
	Disbursements	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*
MF Global Holdings Ltd	$ 36,625,201	$ 30,000	$ 250,000	$ 1,149,615	$ 6,500	$ 11,496
MF Global Finance USA Inc.	17,245,895	20,000	172,459	1,318,815	6,500	13,188
MF Global Holdings USA Inc.	-	325	325	28,540	650	650
Total	$ 53,871,096	$ 50,325	$ 422,784	$ 2,496,970	$ 13,650	$ 25,334

	Q3			Q4			Total 2018			Variance
	Disbursements	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*	
MF Global Holdings Ltd	$ 2,204,561	$ 9,750	$ 22,046	$ 1,882,404	$ 6,500	$ 18,824	$ 41,861,781	$ 52,750	$ 302,366	$ 249,616
MF Global Finance USA Inc.	1,375,137	6,500	13,751	1,005,890	6,500	10,059	20,945,736	39,500	209,457	169,957
MF Global Holdings USA Inc.	61,345	650	650	71,378	650	650	161,263	2,275	2,275	-
Total	$ 3,641,042	$ 16,900	$ 36,447	$ 2,959,672	$ 13,650	$ 29,533	$ 62,968,780	$ 94,525	$ 514,098	$ 419,573

2019

	Q1			Q2			Total			Variance
	Disbursements	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*	
MF Global Holdings Ltd	$ 567,913	$ 4,875	$ 4,875	$ 575,620	$ 4,875	$ 4,875	$ 1,143,533	$ 9,750	$ 9,750	$ -
MF Global Finance USA Inc.	1,071,150	6,500	10,712	351,405	4,875	4,875	1,422,555	11,375	15,587	4,212
MF Global Holdings USA Inc.	79,282	975	975	110,169	975	975	189,451	1,950	1,950	-
Total	$ 1,718,345	$ 12,350	$ 16,562	$ 1,037,194	$ 10,725	$ 10,725	$ 2,755,539	$ 23,075	$ 27,287	$ 4,212

Excess Fees paid in Q1-Q4 2018:	$419,573.00
Excess Fees paid in Q1 2019:	$4,212.00
TOTAL EXCESS FEES PAID:	**$423,785.00**

Preston Decl. ¶ 26; Siddiqui Decl., MFG Ex. 16.

67. The information summarized in Tables 1 and 2 is aggregated totals of the paid fees and disbursements of Holdings Ltd., Finco, and Holdings USA provided in emails previously transmitted to the UST for each of the four quarters of 2018 and the first two quarters of 2019, and then the mathematical calculation of what each Debtor's quarterly fees would have been using the Pre-Amendment Fee Schedule based on the respective disbursements of Holdings Ltd., Finco, and Holdings USA reported to the UST during the four quarters of 2018 and the first two quarters of 2019. Preston Decl. ¶¶ 24-27.

68. For Q1 2018, on Monday, April 30, 2018, MF Global sent the UST an email enclosing the signed March 2018 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2017 Fee Notice:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q1 2018 DISBURSEMENTS [1]	Q1 2018 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (36,625,201)	$ 250,000
11-15058 (MG)	MF Global Finance USA Inc.	(17,245,895)	172,459
12-10863 (MG)	MF Global Holdings USA Inc.	-	325
Total Disbursements to Non-Debtors		**$ (53,871,096)**	**$ 422,784**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q1 2018 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 27; Siddiqui Decl., MFG Ex. 7.

69. For Q2 2018, on Tuesday, July 31, 2018, MF Global sent the UST an email enclosing the signed June 2018 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2017 Fee Notice:

CASE NUMBER	DEBTOR ENTITY	Q2 2018 DISBURSEMENTS [1]	Q2 2018 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (1,149,615)	$ 11,496
11-15058 (MG)	MF Global Finance USA Inc.	(1,318,815)	13,188
12-10863 (MG)	MF Global Holdings USA Inc.	(28,540)	650
Total Disbursements to Non-Debtors		**$ (2,496,970)**	**$ 25,334**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q2 2018 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 28; Siddiqui Decl., MFG Ex. 8.

70. For Q3 2018, on Wednesday, October 24, 2018, MF Global sent the UST an email enclosing the signed September 2018 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2018 Fee Notice:

CASE NUMBER	DEBTOR ENTITY	Q3 2018 DISBURSEMENTS [1]	Q3 2018 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (2,204,561)	$ 22,046
11-15058 (MG)	MF Global Finance USA Inc.	(1,375,137)	13,751
12-10863 (MG)	MF Global Holdings USA Inc.	(61,345)	650
Total Disbursements to Non-Debtors		**$ (3,641,042)**	**$ 36,447**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q3 2018 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 29; Siddiqui Decl., MFG Ex. 9.

71. For Q4 2018, on Tuesday, January 29, 2019, MF Global sent the UST an email enclosing the signed December 2018 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2018 Fee Notice:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q4 2018 DISBURSEMENTS [1]	Q4 2018 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (1,882,404)	$ 18,824
11-15058 (MG)	MF Global Finance USA Inc.	(1,005,890)	10,059
12-10863 (MG)	MF Global Holdings USA Inc.	(71,378)	650
Total Disbursements to Non-Debtors		**$ (2,959,672)**	**$ 29,533**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q4 2018 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 30; Siddiqui Decl., MFG Ex. 10.

72. For Q1 2019, on Tuesday, April 30, 2019, MF Global sent the UST an email enclosing the signed March 2019 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2018 Fee Notice:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q1 2019 DISBURSEMENTS [1]	Q1 2019 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (567,913)	$ 4,875
11-15058 (MG)	MF Global Finance USA Inc.	(1,071,150)	10,712
12-10863 (MG)	MF Global Holdings USA Inc.	(79,282)	975
Total Disbursements to Non-Debtors		**$ (1,718,345)**	**$ 16,562**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q1 2019 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 31; Siddiqui Decl., MFG Ex. 11.

73. For Q2 2019, on Tuesday, July 30, 2019, MF Global sent the UST an email enclosing the signed June 2019 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2018 Fee Notice:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q2 2019 DISBURSEMENTS [1]	Q2 2019 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (575,620)	$ 4,875
11-15058 (MG)	MF Global Finance USA Inc.	(351,405)	4,875
12-10863 (MG)	MF Global Holdings USA Inc.	(110,169)	975
Total Disbursements to Non-Debtors		**$ (1,037,194)**	**$ 10,725**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q2 2019 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 32; Siddiqui Decl., MFG Ex. 12.

74. Copies of MF Global's emails, which contain the charts set forth in paragraphs 68 to 73 above, to the UST transmitting the quarterly fees and providing the breakdown of the disbursements and fees by Debtor for Q1-Q4 2018 and Q1-Q2 2019 were annexed to the Complaint as composite Exhibit E. Preston Decl. ¶ 33; Siddiqui Decl., MFG Exs. 26 at Ex. E.

75. For Q3 2019, on Thursday, October 31, 2019, MF Global sent the UST an email enclosing the signed September 2019 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using both the Revised Fee Schedule and using the Pre-Amendment Fee Schedule:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q3 2019 DISBURSEMENTS [1]	New Schedule Q3 2019 UST FEE	Old Schedule Q3 2019 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (1,282,226)	$ 12,822	$ 6,500
11-15058 (MG)	MF Global Finance USA Inc.	(575,128)	4,875	4,875
12-10863 (MG)	MF Global Holdings USA Inc.	(86,731)	975	975
Total Disbursements to Non-Debtors		**$ (1,944,085)**	**$ 18,672**	**$ 12,350**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q3 2019 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 34; Siddiqui Decl., MFG Ex. 13.

76. MF Global advised the UST that:

> In light of the recently filed Complaint in Adversary Proceeding 19-01379-mg (also attached), the Plan Administrator will not be sending a check for the Q3 2019 fees and instead will be asking the Court to apply $12,350 (which as noted below is this quarter's fees under pre-2018 fee schedule) to reduce the amount of Excess Fees (as defined in the Complaint) owed to the Plan Administrator. The Plan Administrator will reserve sufficient funds to satisfy fees owed, if any, once the Court decides the issues raised in the Adversary Proceeding or otherwise directs us.

Preston Decl. ¶ 35; Siddiqui Decl., MFG Ex. 13.

77. On Monday, November 18, 2019, the UST replied to MF Global's October 31, 2019 email, writing as follows:

> In response to your email of October 31, 2019. The United States Trustee objects to the application of $12,350 in fees the Plan Administrator alleges it overpaid against Q3 2019 quarterly fees, in lieu of payment.
>
> This matter is being litigated in the adversary proceeding referenced in your email, and the United States Trustee reserves all his rights until the litigation has been fully and finally resolved and all appeals to higher courts are exhausted.

Preston Decl. ¶ 36; Siddiqui Decl., MFG Ex. 14.

78. MF Global cannot calculate with 100% certainty the fees that will be due for Q4 2019 until all disbursements for the quarter, which closes December 31, 2019, have been made. Preston Decl. ¶ 37.

79. However, the Plan Administrator made a distribution in October 2019 which will result in increased fees for Q4 2019 in an aggregate estimated amount in excess of $330,000 for this single quarter if subject to the Revised Fee Schedule imposed by the Amendment, as shown in the following chart:

TABLE 3: FEES CALCULATED ON Q4 2019 DISTRIBUTIONS UNDER PRE-AMENDMENT FEE SCHEDULE VS. REVISED FEE SCHEDULE

	October 2019 Distribution	*Old Fees*	*New Fees*	*Variance*
MF Global Holdings Ltd	$ 33,438,305	$ 30,000	$ 250,000	$ 220,000
MF Global Finance USA Inc.	12,484,861	13,000	124,849	111,849
MF Global Holdings USA Inc.	88,798	975	975	-
Total	**$ 46,011,964**	**$ 43,975**	**$ 375,824**	**$ 331,849**

Preston Decl. ¶ 38; Siddiqui Decl., MFG Ex. 17.

80. MF Global has also calculated its estimated fees for Q4 2019 based on the Debtors' disbursements through November 18, 2019, including the October distribution. These estimated fees are shown on the following chart, calculated using both the Revised Fee Schedule and using the Pre-Amendment Fee Schedule:

TABLE 4: ESTIMATED FEES CALCULATED ON Q4 2019 DISBURSEMENTS THROUGH NOVEMBER 18, 2019 UNDER PRE-AMENDMENT FEE SCHEDULE VS. REVISED FEE SCHEDULE

	Disbursements [1]	*Old Fees*	*New Fees*	*Variance*
MF Global Holdings Ltd	$ 33,627,831	$ 30,000	$ 250,000	$ 220,000
MF Global Finance USA Inc.	12,574,995	13,000	125,750	112,750
MF Global Holdings USA Inc.	212,168	1,625	1,625	-
Total	**$ 46,414,994**	**$ 44,625**	**$ 377,375**	**$ 332,750**

[1] Disbursements include activity for Q4 2019 from October 1 through November 18.

Preston Decl. ¶ 39; Siddiqui Decl., MFG Ex. 18.

V. THIS ADVERSARY PROCEEDING

81. The Plan Administrator commenced the above-captioned Adversary Proceeding on October 22, 2019. Ferber Decl. ¶ 54.

82. The Adversary Complaint seeks a declaration that the UST fees payable under the Plan pursuant to 28 U.S.C. § 1930(a)(6) are to be calculated under the Pre-Amendment Fee Schedule and an order requiring the UST to refund any Excess Fees paid to date, as reduced by any UST fees due for Q3 2019 (and Q4 2019 or future fees, once such fees are calculated) applied by MF Global to reduce the amount of Excess Fees. Ferber Decl. 57; Siddiqui Decl., MFG Ex. 26.

83. As shown in Table 1, the amount of Excess Fees paid by the Debtors through Q2 2019 is in the aggregate $423,785.00. *See* ¶ 64, *supra;* Preston Decl. 24.

84. As noted above, MF Global did not remit a check for the Debtors' aggregate UST fees for Q3 2019 to avoid increasing the amount of Excess Fees and reduce the Excess Fees owed to MF Global. *See* ¶ 76, *supra.*

85. Through this Motion, MF Global seeks to have the Court determine that MF Global (i) is entitled to a refund from Defendants of the aggregate quarterly fee overpayments by MF Global from Q1 2018 through Q2 2019 in the amount of $423,785.00 (the "Total Excess Fees"), less any amount of unpaid quarterly fees owed but withheld by MF Global prior to receiving a refund of its overpayments (the "Net Refund Due"); (ii) is authorized to calculate MF Global's quarterly UST fees using the Pre-Amendment Fee Schedule for the period beginning with Q3 2019 through the duration of the chapter 11 cases of Holdings Ltd., Finco, and Holdings USA ("Future UST Fees"); and (iii) is authorized to withhold payment of quarterly fees incurred in Q3 2019 (in the aggregate amount of $12,350.00 as calculated under the Pre-Amendment Fee Schedule (Preston Decl. ¶ 24)), Q4 2019 (estimated to be at least at least $44,625 in the aggregate as calculated under the Pre-Amendment Fee Schedule (Preston Decl. ¶ 39)), and any other Future UST Fees until all Excess Fees have been refunded, and to apply such withheld fees to reduce the Net Refund Due.

Respectfully Submitted,

Dated: November 21, 2019
New York, New York

/s/ *Jane Rue Wittstein*
Christopher DiPompeo
Admitted *Pro Hac Vice*
JONES DAY
51 Louisiana Ave., N.W.
Washington, DC 20001
Telephone: (202) 879-3939
Facsimile: (202) 626-1700
Email: cdipompeo@jonesday.com

-and-

Bruce Bennett
Jane Rue Wittstein
Furqaan Siddiqui
JONES DAY
250 Vesey Street
New York, NY 10281
Tel: (212) 326-3939
Fax: (212) 755-7306

Counsel for MF Global Holdings Ltd., as Plan Administrator

NAI-1509974949

Opening Motions Deadline: Thursday, November 21, 2019 at 5:00 p.m. (prevailing Eastern Time)
Oppositions Deadline: Tuesday, December 17, 2019 at 5:00 p.m. (prevailing Eastern Time)
Hearing Date: Tuesday, January 7, 2020 at 10:00 a.m. (prevailing Eastern Time)

JONES DAY
Christopher DiPompeo
51 Louisiana Ave., N.W.
Washington, DC 20001
Tel: (202) 879-3939
Fax: (202) 626-1700
-and-
Bruce Bennett
Jane Rue Wittstein
Furqaan Siddiqui
250 Vesey Street
New York, NY 10281
Tel: (212) 326-3939
Fax: (212) 755-7306

Counsel for MF Global Holdings Ltd.,
as Plan Administrator

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	**Chapter 11**
MF GLOBAL HOLDINGS LTD., et al.,	:	**Case No. 11-15059 (MG)**
Debtors. [1]	:	**(Jointly Administered)**
MF GLOBAL HOLDINGS LTD., as Plan Administrator,	:	**Adv. Proc. No. 19-01379 (MG)**
Plaintiffs,	:	
vs.	:	
WILLIAM K. HARRINGTON, in his official capacity as United States Trustee for Region 2; CLIFFORD J. WHITE III, in his official capacity as Director of the United States Trustee Program; and the UNITED STATES TRUSTEE PROGRAM,	:	
Defendants.	:	

LOCAL BANKRUPTCY RULE 7056-1 STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF THE PLAN ADMINISTRATOR'S MOTION FOR SUMMARY JUDGMENT

[1] The debtors in the above-captioned cases are MF Global Holdings Ltd.; MF Global Finance USA Inc.; and MF Global Holdings USA Inc. The Court entered an order of final decree closing the chapter 11 cases of MF Global Capital LLC, MF Global FX Clear LLC, and MF Global Market Services LLC on February 11, 2016. *See* D.I. 2201.

Plaintiff MF Global Holdings Ltd. ("Holdings Ltd."), as Plan Administrator, on behalf of itself and debtors MF Global Finance USA Inc. ("Finco") and MF Global Holdings USA Inc. ("Holdings USA") (collectively, "MF Global"), submits this statement of facts as to which there is no dispute in support of MF Global's motion for summary judgment ("Motion") pursuant to Bankruptcy Rule 7056 and Local Bankruptcy Rule 7056-1 for the U.S. Bankruptcy Court for the Southern District of New York ("MFG's 7056-1 Statement"). MFG's 7056-1 Statement is supported by the accompanying (i) Declaration of Laurie Ferber, dated November 21, 2019 ("Ferber Decl."), (ii) Declaration of Wade Preston, dated November 21, 2019 ("Preston Decl."); and (iii) Declaration of Furqaan Siddiqui, dated November 21, 2019 ("Siddiqui Decl."), together with its exhibits. The Siddiqui Declaration annexes documents designated as "MFG Exhibits" which are referenced herein with the prefix "MFG Ex." followed by an individual identifying number corresponding to the MFG Exhibit number assigned in the Siddiqui Declaration. Filings in MF Global's above-captioned jointly administered chapter 11 cases, Case No. 11-15059 (MG), will be cited as "D.I. __" and filings in the above-captioned Adversary Proceeding, Adv. Proc. No. 19-01379 (MG), will be cited as "Adv. D.I. __"

I. MF GLOBAL'S CHAPTER 11 CASES AND CONFIRMED PLAN

1. On October 31, 2011 (the "Petition Date"), Holdings, Ltd. and Finco filed voluntary petitions for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code in this Court. Ferber Decl. ¶ 5.

2. On December 19, 2011, MF Global Capital LLC, MF Global FX Clear LLC, and MF Global Market Services LLC (collectively with Holdings Ltd., Finco, and Holdings USA, the "Debtors"), filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code. Ferber Decl. ¶ 6.

3. On March 2, 2012, Holdings USA filed a voluntary petition in this Court for relief under chapter 11 of the Bankruptcy Code. Ferber Decl. ¶ 7.

4. The Debtors' cases are jointly administered pursuant to Bankruptcy Rule 1015(b) under Case No. 11-15059 (MG) (D.I. 19, 298, 528). Ferber Decl. ¶ 8.

5. On November 28, 2011, December 27, 2011, and March 8, 2012, Louis J. Freeh (the "Chapter 11 Trustee") was appointed as the chapter 11 trustee for Holdings Ltd. and Finco, MF Global Capital LLC, MF Global FX Clear LLC, and MF Global Market Services LLC, and Holdings USA, respectively. (D.I. 170, 306, 548). Ferber Decl. ¶ 9.

6. On January 10, 2013, certain of MF Global's creditors (the "Creditor Plan Proponents") filed a proposed plan of liquidation and corresponding disclosure statement. (D.I. 996, 995). Ferber Decl. ¶ 10.

7. Although the Debtors' cases were consolidated for administrative purposes, each Debtor's estate was separately preserved in the proposed plan, with different Classes of the Plan providing the prescribed treatment for each Debtor's respective groups of stakeholders. Ferber Decl. ¶ 11.

8. On February 2, 2013, the Creditor Plan Proponents and Chapter 11 Trustee (together, the "Plan Proponents") filed the *Joint Plan of Liquidation Pursuant To Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Holdings USA Inc.* (D.I. 1031) (the "Joint Plan"), and a corresponding disclosure statement (D.I. 1029). Ferber Decl. ¶ 12.

9. On February 12, 2013, February 15, 2013, February 19, 2013 and February 20, 2013, the Plan Proponents filed amended versions of the Joint Plan (D.I. 1070, 1094, 1104, 1111), and corresponding amended versions of the disclosure statement (D.I. 1068, 1092, 1104, 1111). Ferber Decl. ¶ 13.

10. This Joint Plan was the product of extensive negotiations among the Creditor Plan Proponents, the Chapter 11 Trustee, and many other constituencies in the months before and after its filing. Even in the weeks leading up to confirmation, the Plan Proponents engaged in negotiation and revisions to the proposed Joint Plan to address, *inter alia,* issues concerning the treatment of "certain Intercompany Claims" which resulted in a revised settlement of those Intercompany Claims eventually embodied in the *Amended and Restated Joint Plan of Liquidation Pursuant*

to Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Holdings USA Inc. (D.I. 1382)(the "Plan") (appended as Siddiqui Decl., MFG Ex. 20). *See generally Plan Proponents' Motion To (I) Approve The Disclosure Statement Supplement, (II) Approve Expedited Solicitation Procedures With Respect To The Disclosure Statement Supplement And Plan Adjustment, And (III) Grant Related Relief* filed on March 8, 2013 (D.I. 1182) at ¶¶ 2-8; Ferber Decl. ¶ 14; Siddiqui Decl., MFG Ex. 19.

11. On April 5, 2013, the Court entered an order (D.I. 1288) (the "Confirmation Order") confirming the *Amended and Restated Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Holdings USA Inc.* Ferber Decl. ¶ 15; Siddiqui Decl., MFG Ex. 21.

12. On May 2, 2013, the Court entered an order approving certain nonmaterial modifications to the confirmed plan which are reflected in the Plan (D.I. 1376). Ferber Decl. ¶ 16.

13. The Effective Date of the Plan occurred on June 4, 2013 (D.I. 1482). Ferber Decl. ¶ 17.

14. As of the Effective Date, Holdings Ltd. became the Plan Administrator under the Plan. Ferber Decl. ¶ 18.

15. Also as of the Effective Date, pursuant to the Confirmation Order, the Chapter 11 Trustee fulfilled all of his duties under section 1106 of the Bankruptcy Code and, accordingly, was discharged from all further obligations. Ferber Decl. ¶ 19.

16. The Plan acknowledged that "the Plan constitutes a separate chapter 11 plan of liquidation for each Debtor" and each Debtor's stakeholders were assigned to a designated Class of Claims or Interest, with the treatment for each such Class provided for in the Plan. Siddiqui Decl., MFG Ex. 20, Plan at Art. III(A); Ferber Decl. ¶ 20. Holders of Allowed Claims and Interests in each Class are entitled to distributions of Available Cash in accordance with the provisions of the Plan, and the Plan Administrator is obligated to make such distributions as "quickly as reasonably practicable while limiting the costs incurred in the distribution process." Siddiqui Decl., MFG Ex. 20, Plan at Art. I.7 & VI(A)-(B)); Ferber Decl. ¶ 11.

17. The Plan expressly provided that each Debtor would pay quarterly fees due to the United States Trustee Program ("UST") under 28 U.S.C. § 1930, both before and after the Plan's Effective Date. Ferber Decl. ¶ 21.

18. The Plan acknowledged the Plan Administrator's responsibility to pay "Plan Administration Expenses," which include "any and all reasonable fees, costs and expenses incurred . . . in connection with . . . (vi) fees payable under 28 U.S.C. § 1930". *See* Siddiqui Decl., MFG Ex. 20, Plan at Art. IV(C)(xii). Ferber Decl. ¶ 21.

19. For the period post-Effective Date, the Plan provides that: "Fees payable pursuant to 28 U.S.C. § 1930 for each Debtor's Estate after the Effective Date shall be paid by the Plan Administrator . . . until the closing of the applicable Chapter 11 Case pursuant to § 350(a) of the Bankruptcy Code." Siddiqui Decl., MFG Ex. 20, Plan at Art. II.A.5; Ferber Decl. ¶ 22.

20. The Confirmation Order also requires that "the Plan Administrator and any Liquidating Trustee thereafter appointed, shall pay all fees incurred pursuant to § 1930 of title 28 of the United States Code." Siddiqui Decl., MFG Ex. 21, Confirmation Order at ¶ 95; Ferber Decl. ¶ 23.

21. As published on the UST's website, the quarterly fee schedule in effect from January 1, 2008 through December 31, 2017 (the "Pre-Amendment Fee Schedule") was as follows:

A. FEE SCHEDULE FOR CALENDAR QUARTERS BEGINNING JANUARY 1, 2008 THROUGH DECEMBER 31, 2017

TOTAL QUARTERLY DISBURSEMENTS	QUARTERLY FEE
$0 to $14,999.99	$325.00
$15,000 to $74,999.99	$650.00
$75,000 to $149,999.99	$975.00
$150,000 to $224,999.99	$1,625.00
$225,000 to $299,999.99	$1,950.00
$300,000 to $999,999.99	$4,875.00
$1,000,000 to $1,999,999.99	$6,500.00
$2,000,000 to $2,999,999.99	$9,750.00

TOTAL QUARTERLY DISBURSEMENTS	QUARTERLY FEE
$3,000,000 to $4,999,999.99	$10,400.00
$5,000,000 to $14,999,999.99	$13,000.00
$15,000,000 to $29,999,999.99	$20,000.00
$30,000,000 or more	$30,000.00

https://www.justice.gov/ust/chapter-11-quarterly-fees. Siddiqui Decl., MFG Ex. 4.

II. INCREASE IN U.S. TRUSTEE QUARTERLY FEE SCHEDULE

22. The UST is a division of the U.S. Department of Justice responsible for overseeing the administration of bankruptcy cases in 88 of the 94 judicial districts of the United States. Siddiqui Decl., MFG Ex. 5 at 1.

23. In the six judicial districts located in Alabama and North Carolina, bankruptcy cases are overseen by the Bankruptcy Administrator Program, which is part of the judicial branch and is overseen by the Administrative Office of the United States Courts (the "BA Districts"). *See generally* Siddiqui Decl., MFG Ex. 5 at 1 & MFG Ex. 6A at 11.

24. The Administrative Office of the United States Courts is supervised by the Judicial Conference of the United States. *See generally* Siddiqui Decl., MFG Ex. 6A at 11.

25. The Judicial Conference is chaired by the Chief Justice of the United States and includes as members the Chief Judge of each judicial circuit, the Chief Judge of the Court of International Trade, and a District Judge from each judicial circuit. Siddiqui Decl., MFG Ex. 6A at 1.

26. In the judicial districts operated by the UST (including the Southern District of New York) (the "UST Districts"), chapter 11 debtors are required to pay quarterly fees to the UST in accordance with 28 U.S.C. § 1930, which provides that, among other fees, a "quarterly fee shall be paid to the United States trustee, for deposit in the Treasury, in each case under chapter 11 of title 11 for each quarter (including any fraction thereof) until the case is converted or dismissed, whichever occurs first." 28 U.S.C. § 1930(a)(6)(A). *See generally* Siddiqui Decl., MFG Ex. 4.

27. The quarterly fees are based on the total quarterly "disbursements" made by the applicable debtor in each quarter. *Id*.

28. The UST website acknowledges that the Pre-Amendment Fee Schedule was in effect from January 1, 2008 – more than three years prior to the filing of MF Global's chapter 11 cases – until December 31, 2017 – more than four years after the Effective Date of MF Global's confirmed Plan. *See* Siddiqui Decl., MFG Ex. 4 ; ¶ 21, *supra;* Ferber Decl. ¶ 25.

29. Under the Pre-Amendment Fee Schedule, the maximum quarterly fee per debtor was capped at $30,000 per quarter and only applied to disbursements of $30 million or more. Ferber Decl. ¶ 26; Siddiqui Decl., MFG Ex. 4, 6B at 19.

30. The cap on fees per debtor at $30,000, with much lower fees when disbursements were less than $30 million, meant during the time period that MF Global's Plan was being negotiated, the UST fees anticipated to be payable by each Debtor could never exceed $30,000 per quarter. Ferber Decl. ¶ 27.

31. Given the $30 million threshold for imposing the highest fees, it was also clear that only certain of the Debtor's estates would ever be expected to owe fees that would reach this cap, and then almost exclusively during quarters when such Debtor made extremely large distributions to creditors. Ferber Decl. ¶ 28; Preston Decl. ¶ 17.

32. As such, during the time period when MF Global's Plan was negotiated, the magnitude of the UST fees was not a factor in structuring the Plan to maximize recoveries for the Debtors' stakeholders. Ferber Decl. ¶ 29.

33. In October 2017, Congress amended 28 U.S.C. § 1930(a)(6) to increase the quarterly fees that would be payable to the UST in chapter 11 cases for disbursements of $1 million or more during any period when the United States Trustee System Fund balance at the beginning of the then-current fiscal year was less than $200 million. *See* Bankruptcy Judgeship Act of 2017, Pub. L. No. 115-72, § 1001, 131 Stat. 1224, 1232 at §1004 (October 26, 2017) (the "Amendment"). Siddiqui Decl., MFG Ex. 1.

34. The Amendment did not state whether the Amendment was intended to apply to pending chapter 11 cases or to chapter 11 cases with plans that were confirmed prior to the Amendment's effective date. *Id*.

35. The Amendment left in place the Pre-Amendment Fee Schedule for disbursements up to $1 million. However, for any period when the United States Trustee System Fund balance at the beginning of the then-current fiscal year was less than $200 million and for disbursements of $1 million or more, the Amendment provided for debtors to pay the lesser of 1% of disbursements or $250,000 (the "Revised Fee Schedule"). *Id.; see also* Siddiqui Decl., MFG Ex. 4.

36. The Revised Fee Schedule imposes a rate of $10,000 in UST fees per million dollars in disbursements, up to a cap of $250,000 in UST fees when disbursements reach or exceed $25 million – per quarter, per debtor. *Id*.

37. The UST fees under the Pre-Amendment Fee Schedule were capped at $30,000 per quarter per debtor, achievable only when disbursements exceeded $30 million per quarter, creating a cap on any potential annual UST fee expense in any annual period per debtor of $120,000, assuming annual disbursements per debtor of over $120 million. Ferber Decl. ¶ 30.

38. Under the Revised Fee Schedule, the maximum exposure per debtor increased to $250,000 in quarterly UST fees for disbursements of at least $25 million, for an annualized exposure of $1 million in fees per debtor, assuming annual disbursements per debtor exceeding $100 million. Ferber Decl. ¶ 31.

39. The Revised Fee Schedule thus imposes maximum UST fees per debtor per quarter that are 833% of the capped fees under the Pre-Amendment Fee Schedule. Ferber Decl. ¶ 32.

40. The Amendment's provisions with respect to UST fees, which addressed only 28 U.S.C. § 1930(a)(6), did not by its express terms provide for the Revised Fee Schedule to apply in the BA Districts (*i.e.*, Alabama and North Carolina). Siddiqui Decl., MFG Exs. 1, 6B.

41. In those districts, 28 U.S.C. § 1930(a)(7) provides that "the Judicial Conference of the United States *may require* the debtor in a case under chapter 11 of title 11 to pay fees equal to those imposed by paragraph (6) of this subsection." *See* 28 U.S.C. § 1930(a)(7) (emphasis added).

42. Effective January 1, 2018, the UST began assessing the increased quarterly fees on all cases pending in UST Districts, regardless of whether the cases were commenced before or after the Amendment. Siddiqui Decl., MFG Exs. 2, 4.

43. In September 2018, the Judicial Conference of the United States decided to impose the quarterly fee increase in BA Districts, following a report from the Judicial Conference's Committee on the Administration of the Bankruptcy System. *See* Sept. 2018 Jud. Conf. U.S. Rep. 11-12, http://www.uscourts.gov/sites/default/files/2018-09_proceedings.pdf. (appended as Siddiqui Decl., MFG Ex. 6A) (the "Judicial Conference Report"); Sept. 2018 Rep. of Jud. Conf. Comm. on Admin. of Bankr. Sys. 18-20 (appended as Siddiqui Decl., MFG Ex. 6B) (the "Judicial Conference Bankruptcy Committee Report").

44. The Judicial Conference, however, applied the Revised Fee Schedule only to cases filed on or after October 1, 2018. *See* MFG Ex. 6B.

45. Consequently, for cases filed in UST Districts prior to October 1, 2018, the UST assesses quarterly fees under the new schedule provided by the Amendment, which caps fees at $250,000 per debtor. Meanwhile, for cases filed in BA Districts prior to October 1, 2018, quarterly fees are assessed under the prior schedule, which caps fees at $30,000 per debtor when disbursements exceed $30 million—a rate of less than 0.1%.

III. APPLICATION OF THE REVISED FEE SCHEDULE TO THIS CASE

46. As noted above, MF Global's Plan became effective June 4, 2013. From 2013 through the fourth quarter of 2017, MF Global paid quarterly fees on disbursements based on the Pre-Amendment Fee Schedule, *i.e.,* the version of 28 U.S.C. § 1930(a) in effect when the Plan was confirmed. Ferber Decl. ¶ 33. The total aggregate UST fees paid by the three remaining Debtors, Holdings Ltd., Finco, and Holdings USA, from the commencement of their respective chapter 11 cases through the Effective Date of the Plan was $158,775. For the post-Effective Date quarters from Q2 2013 through Q4 2017, Holding Ltd., Finco, and Holdings USA paid in the aggregate quarterly UST fees of an additional $758,925, for total UST fees paid in the aggregate through Q4 2017 for these three Debtors of $917,700. Preston Decl. ¶ 11.

47. On or about December 27, 2017, the Plan Administrator received a letter from the Executive Office for United States Trustees entitled "Notice of Revised Chapter 11 Quarterly Fee Schedule" (the "2017 UST Notice"). *See* Siddiqui Decl., MFG Ex. 2.

48. The 2017 UST Notice contained a table which was described as representing "the revised quarterly fee schedule for the calendar quarters beginning January 1, 2018 through September 30, 2018." *Id*.

49. The 2017 UST Notice made clear that, in the UST's view, fees calculated in accordance with the schedule set forth in the Amendment were due "on the last day of the calendar month following the calendar quarter for which the fee is owed." *Id.* The 2017 UST Notice also stated that "[i]nterest will be charged on unpaid quarterly fees, pursuant to 31 U.S.C. § 3717." *Id.*

50. In or about September 2018, the Plan Administrator received a letter from the Executive Office for United States Trustees entitled "Notice of Continued Application of Revised Chapter 11 Quarterly Fee Schedule" (the "2018 UST Notice"). *See* Siddiqui Decl., MFG Ex. 3.

51. The 2018 UST Notice indicated that because the "[United States Trustee System] Fund balance as of September 30, 2018 is expected to be less than $200 million, . . . the amended chapter 11 quarterly fee schedule below will continue to apply for calendar quarters beginning October 1, 2018 through September 30, 2019." *Id*.

52. Recently, the UST website confirmed that "[t]he balance in the Fund as of September 30, 2019, is projected to be less than $200 million. Accordingly, the amended chapter 11 quarterly fee schedule below is anticipated to apply for the calendar quarters beginning October 1, 2019 through September 30, 2020." Siddiqui Decl., MFG Ex. 4 (the "2019 UST Notice").

53. As directed by the UST in the 2017 UST Notice, the Plan Administrator began making payments under the fee schedule provided for in the Amendment beginning with the debtors' Q1 2018 fee payment in April 2018. Ferber Decl. ¶ 40; Preston Decl. ¶ 22.

54. The UST's directive that MF Global pay fees according to the Amendment's increased fee schedule resulted in a substantial increase in the quarterly fees payable by the Plan Administrator compared to the quarterly fee schedule that was previously in effect. Ferber Decl. ¶ 41.

55. In fact, in the five years between when MF Global's plan was confirmed and when the UST demanded that MF Global pay the higher fees, Holdings Ltd., Finco, and Holdings USA paid a combined $758,925 in fees in the aggregate. Preston Decl. ¶ 11. Yet in the very first quarter

after the UST demanded that MF Global pay fees under the Revised Fee Schedule, these same Debtors paid more than half that amount – $422,784 in combined UST fees – in a single quarter. Ferber Decl. ¶ 42; Preston Decl. ¶ 24; Siddiqui Decl., MFG Ex. 15.

56. At no time during the negotiation, development, or confirmation of MF Global's plan was there any reason to suspect that the UST fees would go from a level that was capped at $30,000 per debtor, applicable only when disbursements were at least ***$30 million*** (representing a fee of less than 0.1% of disbursements for the highest spending quarters) to a system where a 1% fee would attach for any quarter when disbursements exceeded a much lower threshold of ***$1 million.*** Ferber Decl. ¶ 43.

57. Under the Revised Fee Schedule, fees in excess of $30,000 attach whenever quarterly disbursements exceed $3 million, lowering the threshold for incurring what used to be the highest-level fee by a factor of ten. Ferber Decl. ¶ 44; Preston Decl. ¶ 16.

58. Since this change in the UST fee schedule was announced more than four years post-Confirmation and post-Effective Date, MF Global had no opportunity to structure a Plan that could have lessened the impact of these fees on its creditors (for example, by consolidating debtors). Ferber Decl. ¶ 45.

59. If the Revised UST Schedule applies to MF Global, the Excess Fees already paid and future increased fees will adversely impact the Debtors' creditors by reducing future distributions, effectively operating to reallocate funds away from the Plan's allowed claim and interest holders and to the UST. Ferber Decl. ¶ 46.

60. In a statement to Congress dated June 8, 2017, the UST acknowledged that the UST Fund was fully funded from fiscal year 1989 through fiscal year 2016; it was projected funding shortfalls during fiscal year 2017 that prompted the UST to ask Congress to increase the quarterly fees beginning in fiscal year 2018 and beyond. Siddiqui Decl., MFG Ex. 5 at 11.

61. Since the Effective Date, the Plan Administrator has been engaging in its functions under the Plan to, *inter alia*, marshal and liquidate assets and maximize value to creditors. Siddiqui Decl., MFG Ex. 20, Plan at Art. IV.(C) and V.(D); Ferber Decl. 47.

62. As is made express in the Confirmation Order, post-Effective Date, the Plan Administrator is permitted to perform its functions under the Plan "without any supervision or approval by the

Bankruptcy Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules." Siddiqui Decl,, MFG Ex. 21, Confirmation Order at ¶ 34.

63. Since the Effective Date, with the exception of the UST's review of the final professional fee applications submitted in the chapter 11 cases which were approved in Q4 2013, MF Global is not aware of any active role involving the UST with respect to the Debtors' chapter 11 cases. Ferber Decl. ¶ 48.

IV. AMOUNT OF EXCESS FEES

64. As summarized in Table 1 and detailed more fully below, *see infra* ¶¶ 68 to 73, for the first, second, third and fourth quarters of 2018 and the first two quarters of 2019, the Plan Administrator paid in the aggregate $423,785 in increased quarterly fees under the Revised Fee Schedule as compared with the fees under the Pre-Amendment Fee Schedule (the "Excess Fees").

TABLE 1: AGGREGATE EXCESS FEES PAID

Period	Disbursements	Fees Paid by MF Global	Pre-Amendment Schedule Fees	Excess Fees Paid
Q1 2018	$53,871,096	$422,784	$50,325	$372,459
Q2 2018	$2,496,970	$25,334	$13,650	$11,684
Q3 2018	$3,641,042	$36,447	$16,900	$19,547
Q4 2018	$2,959,672	$29,533	$13,650	$15,883
Q1 2019	$1,718,345	$16,562	$12,350	$4,212
Q2 2019	$1,037,194	$10,725	$10,725	$0
Total		**$541,385**	**$117,600**	**$423,785**

Ferber Decl. ¶ 49; Preston Decl. ¶ 24; Siddiqui Decl., MFG Ex. 15.

65. The figures on Table 1 are, beginning with the second column from the left: (i) the aggregate total disbursements of Holdings Ltd., Finco, and Holdings USA for the four quarters of 2018 and the first two quarters of 2019; (ii) the aggregate amount of fees actually paid by Holdings

Ltd., Finco, and Holdings USA based on their respective disbursements reported to the UST during the four quarters of 2018 and the first two quarters of 2019 using the Revised Fee Schedule in accordance with the directive in the 2017 Fee Notice; (iii) the amount of aggregate fees that would have been owed by Holdings Ltd., Finco, and Holdings USA based on their respective disbursements reported to the UST during the four quarters of 2018 and the first two quarters of 2019 using the Pre-Amendment Fee Schedule; and (iv) the mathematical calculation of the difference between the aggregate UST fees actually paid by MF Global in the four quarters of 2018 and the first two quarters of 2019 vs. the amount of fees payable if the liability of Holdings Ltd., Finco, and Holdings USA for UST fees based on their respective disbursements reported to the UST during the four quarters of 2018 and the first two quarters of 2019 had been calculated using the Pre-Amendment Fee Schedule. Preston Decl. ¶ 25.

66. A chart that breaks down the fees actually paid versus the fees as calculated under the Pre-Amendment Fee Schedule by Debtor for these same quarters is set forth herein as Table 2:

TABLE 2: SUMMARY OF FEES PAID BY DEBTOR UNDER REVISED FEE SCHEDULE VS. PAYMENTS DUE UNDER PRE-AMENDMENT FEE SCHEDULE

2018

	Q1			Q2		
	Disbursements	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*
MF Global Holdings Ltd	$ 36,625,201	$ 30,000	$ 250,000	$ 1,149,615	$ 6,500	$ 11,496
MF Global Finance USA Inc.	17,245,895	20,000	172,459	1,318,815	6,500	13,188
MF Global Holdings USA Inc.	-	325	325	28,540	650	650
Total	$ 53,871,096	$ 50,325	$ 422,784	$ 2,496,970	$ 13,650	$ 25,334

	Q3			Q4			Total 2018			Variance
	Disbursements	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*	
MF Global Holdings Ltd	$ 2,204,561	$ 9,750	$ 22,046	$ 1,882,404	$ 6,500	$ 18,824	$ 41,861,781	$ 52,750	$ 302,366	$ 249,616
MF Global Finance USA Inc.	1,375,137	6,500	13,751	1,005,890	6,500	10,059	20,945,736	39,500	209,457	169,957
MF Global Holdings USA Inc.	61,345	650	650	71,378	650	650	161,263	2,275	2,275	-
Total	$ 3,641,042	$ 16,900	$ 36,447	$ 2,959,672	$ 13,650	$ 29,533	$ 62,968,780	$ 94,525	$ 514,098	$ 419,573

2019

	Q1			Q2			Total			Variance
	Disbursements	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*	*Disbursements*	*Old Fees*	*New Fees*	
MF Global Holdings Ltd	$ 567,913	$ 4,875	$ 4,875	$ 575,620	$ 4,875	$ 4,875	$ 1,143,533	$ 9,750	$ 9,750	$ -
MF Global Finance USA Inc.	1,071,150	6,500	10,712	351,405	4,875	4,875	1,422,555	11,375	15,587	4,212
MF Global Holdings USA Inc.	79,282	975	975	110,169	975	975	189,451	1,950	1,950	-
Total	$ 1,718,345	$ 12,350	$ 16,562	$ 1,037,194	$ 10,725	$ 10,725	$ 2,755,539	$ 23,075	$ 27,287	$ 4,212

Excess Fees paid in Q1-Q4 2018:	$419,573.00
Excess Fees paid in Q1 2019:	$4,212.00
TOTAL EXCESS FEES PAID:	**$423,785.00**

Preston Decl. ¶ 26; Siddiqui Decl., MFG Ex. 16.

67. The information summarized in Tables 1 and 2 is aggregated totals of the paid fees and disbursements of Holdings Ltd., Finco, and Holdings USA provided in emails previously transmitted to the UST for each of the four quarters of 2018 and the first two quarters of 2019, and then the mathematical calculation of what each Debtor's quarterly fees would have been using the Pre-Amendment Fee Schedule based on the respective disbursements of Holdings Ltd., Finco, and Holdings USA reported to the UST during the four quarters of 2018 and the first two quarters of 2019. Preston Decl. ¶¶ 24-27.

68. For Q1 2018, on Monday, April 30, 2018, MF Global sent the UST an email enclosing the signed March 2018 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2017 Fee Notice:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q1 2018 DISBURSEMENTS [1]	Q1 2018 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (36,625,201)	$ 250,000
11-15058 (MG)	MF Global Finance USA Inc.	(17,245,895)	172,459
12-10863 (MG)	MF Global Holdings USA Inc.	-	325
Total Disbursements to Non-Debtors		**$ (53,871,096)**	**$ 422,784**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q1 2018 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 27; Siddiqui Decl., MFG Ex. 7.

69. For Q2 2018, on Tuesday, July 31, 2018, MF Global sent the UST an email enclosing the signed June 2018 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2017 Fee Notice:

CASE NUMBER	DEBTOR ENTITY	Q2 2018 DISBURSEMENTS [1]	Q2 2018 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (1,149,615)	$ 11,496
11-15058 (MG)	MF Global Finance USA Inc.	(1,318,815)	13,188
12-10863 (MG)	MF Global Holdings USA Inc.	(28,540)	650
Total Disbursements to Non-Debtors		**$ (2,496,970)**	**$ 25,334**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q2 2018 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 28; Siddiqui Decl., MFG Ex. 8.

70. For Q3 2018, on Wednesday, October 24, 2018, MF Global sent the UST an email enclosing the signed September 2018 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2018 Fee Notice:

CASE NUMBER	DEBTOR ENTITY	Q3 2018 DISBURSEMENTS [1]	Q3 2018 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (2,204,561)	$ 22,046
11-15058 (MG)	MF Global Finance USA Inc.	(1,375,137)	13,751
12-10863 (MG)	MF Global Holdings USA Inc.	(61,345)	650
Total Disbursements to Non-Debtors		**$ (3,641,042)**	**$ 36,447**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q3 2018 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 29; Siddiqui Decl., MFG Ex. 9.

71. For Q4 2018, on Tuesday, January 29, 2019, MF Global sent the UST an email enclosing the signed December 2018 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2018 Fee Notice:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q4 2018 DISBURSEMENTS [1]	Q4 2018 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (1,882,404)	$ 18,824
11-15058 (MG)	MF Global Finance USA Inc.	(1,005,890)	10,059
12-10863 (MG)	MF Global Holdings USA Inc.	(71,378)	650
Total Disbursements to Non-Debtors		**$ (2,959,672)**	**$ 29,533**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q4 2018 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 30; Siddiqui Decl., MFG Ex. 10.

72. For Q1 2019, on Tuesday, April 30, 2019, MF Global sent the UST an email enclosing the signed March 2019 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2018 Fee Notice:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q1 2019 DISBURSEMENTS [1]	Q1 2019 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (567,913)	$ 4,875
11-15058 (MG)	MF Global Finance USA Inc.	(1,071,150)	10,712
12-10863 (MG)	MF Global Holdings USA Inc.	(79,282)	975
Total Disbursements to Non-Debtors		**$ (1,718,345)**	**$ 16,562**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q1 2019 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 31; Siddiqui Decl., MFG Ex. 11.

73. For Q2 2019, on Tuesday, July 30, 2019, MF Global sent the UST an email enclosing the signed June 2019 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using the Revised Fee Schedule in accordance with the directive in the 2018 Fee Notice:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q2 2019 DISBURSEMENTS [1]	Q2 2019 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (575,620)	$ 4,875
11-15058 (MG)	MF Global Finance USA Inc.	(351,405)	4,875
12-10863 (MG)	MF Global Holdings USA Inc.	(110,169)	975
Total Disbursements to Non-Debtors		**$ (1,037,194)**	**$ 10,725**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q2 2019 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 32; Siddiqui Decl., MFG Ex. 12.

74. Copies of MF Global's emails, which contain the charts set forth in paragraphs 68 to 73 above, to the UST transmitting the quarterly fees and providing the breakdown of the disbursements and fees by Debtor for Q1-Q4 2018 and Q1-Q2 2019 were annexed to the Complaint as composite Exhibit E. Preston Decl. ¶ 33; Siddiqui Decl., MFG Exs. 26 at Ex. E.

75. For Q3 2019, on Thursday, October 31, 2019, MF Global sent the UST an email enclosing the signed September 2019 Quarterly Report and providing the following chart that broke down the disbursements by Debtor and the UST fee calculated using both the Revised Fee Schedule and using the Pre-Amendment Fee Schedule:

In re: MF Global Holdings Ltd, et al.
Case No: 11-15059 (MG)
United States Bankruptcy Court for the Southern District of New York

CASE NUMBER	DEBTOR ENTITY	Q3 2019 DISBURSEMENTS [1]	New Schedule Q3 2019 UST FEE	Old Schedule Q3 2019 UST FEE
11-15059 (MG)	MF Global Holdings Ltd	$ (1,282,226)	$ 12,822	$ 6,500
11-15058 (MG)	MF Global Finance USA Inc.	(575,128)	4,875	4,875
12-10863 (MG)	MF Global Holdings USA Inc.	(86,731)	975	975
Total Disbursements to Non-Debtors		**$ (1,944,085)**	**$ 18,672**	**$ 12,350**

[1] MF Global Holdings Ltd. and MF Global Holdings USA Inc. incur disbursements for operating costs and professional fees on behalf of all Debtors, and in return are reimbursed by each Debtor for such Debtor's allocated portion of these expenses. These allocated expenses are reflected in the Q3 2019 Schedule of Cash Receipts and Disbursements.

Preston Decl. ¶ 34; Siddiqui Decl., MFG Ex. 13.

76. MF Global advised the UST that:

> In light of the recently filed Complaint in Adversary Proceeding 19-01379-mg (also attached), the Plan Administrator will not be sending a check for the Q3 2019 fees and instead will be asking the Court to apply $12,350 (which as noted below is this quarter's fees under pre-2018 fee schedule) to reduce the amount of Excess Fees (as defined in the Complaint) owed to the Plan Administrator. The Plan Administrator will reserve sufficient funds to satisfy fees owed, if any, once the Court decides the issues raised in the Adversary Proceeding or otherwise directs us.

Preston Decl. ¶ 35; Siddiqui Decl., MFG Ex. 13.

77. On Monday, November 18, 2019, the UST replied to MF Global's October 31, 2019 email, writing as follows:

> In response to your email of October 31, 2019. The United States Trustee objects to the application of $12,350 in fees the Plan Administrator alleges it overpaid against Q3 2019 quarterly fees, in lieu of payment.
>
> This matter is being litigated in the adversary proceeding referenced in your email, and the United States Trustee reserves all his rights until the litigation has been fully and finally resolved and all appeals to higher courts are exhausted.

Preston Decl. ¶ 36; Siddiqui Decl., MFG Ex. 14.

78. MF Global cannot calculate with 100% certainty the fees that will be due for Q4 2019 until all disbursements for the quarter, which closes December 31, 2019, have been made. Preston Decl. ¶ 37.

79. However, the Plan Administrator made a distribution in October 2019 which will result in increased fees for Q4 2019 in an aggregate estimated amount in excess of $330,000 for this single quarter if subject to the Revised Fee Schedule imposed by the Amendment, as shown in the following chart:

TABLE 3: FEES CALCULATED ON Q4 2019 DISTRIBUTIONS UNDER PRE-AMENDMENT FEE SCHEDULE VS. REVISED FEE SCHEDULE

	October 2019 Distribution	*Old Fees*	*New Fees*	*Variance*
MF Global Holdings Ltd	$ 33,438,305	$ 30,000	$ 250,000	$ 220,000
MF Global Finance USA Inc.	12,484,861	13,000	124,849	111,849
MF Global Holdings USA Inc.	88,798	975	975	-
Total	**$ 46,011,964**	**$ 43,975**	**$ 375,824**	**$ 331,849**

Preston Decl. ¶ 38; Siddiqui Decl., MFG Ex. 17.

80. MF Global has also calculated its estimated fees for Q4 2019 based on the Debtors' disbursements through November 18, 2019, including the October distribution. These estimated fees are shown on the following chart, calculated using both the Revised Fee Schedule and using the Pre-Amendment Fee Schedule:

TABLE 4: ESTIMATED FEES CALCULATED ON Q4 2019 DISBURSEMENTS THROUGH NOVEMBER 18, 2019 UNDER PRE-AMENDMENT FEE SCHEDULE VS. REVISED FEE SCHEDULE

	Disbursements [1]	*Old Fees*	*New Fees*	*Variance*
MF Global Holdings Ltd	$ 33,627,831	$ 30,000	$ 250,000	$ 220,000
MF Global Finance USA Inc.	12,574,995	13,000	125,750	112,750
MF Global Holdings USA Inc.	212,168	1,625	1,625	-
Total	**$ 46,414,994**	**$ 44,625**	**$ 377,375**	**$ 332,750**

[1] Disbursements include activity for Q4 2019 from October 1 through November 18.

Preston Decl. ¶ 39; Siddiqui Decl., MFG Ex. 18.

V. THIS ADVERSARY PROCEEDING

81. The Plan Administrator commenced the above-captioned Adversary Proceeding on October 22, 2019. Ferber Decl. ¶ 54.

82. The Adversary Complaint seeks a declaration that the UST fees payable under the Plan pursuant to 28 U.S.C. § 1930(a)(6) are to be calculated under the Pre-Amendment Fee Schedule and an order requiring the UST to refund any Excess Fees paid to date, as reduced by any UST fees due for Q3 2019 (and Q4 2019 or future fees, once such fees are calculated) applied by MF Global to reduce the amount of Excess Fees. Ferber Decl. 57; Siddiqui Decl., MFG Ex. 26.

83. As shown in Table 1, the amount of Excess Fees paid by the Debtors through Q2 2019 is in the aggregate $423,785.00. *See* ¶ 64, *supra;* Preston Decl. 24.

84. As noted above, MF Global did not remit a check for the Debtors' aggregate UST fees for Q3 2019 to avoid increasing the amount of Excess Fees and reduce the Excess Fees owed to MF Global. *See* ¶ 76, *supra.*

85. Through this Motion, MF Global seeks to have the Court determine that MF Global (i) is entitled to a refund from Defendants of the aggregate quarterly fee overpayments by MF Global from Q1 2018 through Q2 2019 in the amount of $423,785.00 (the "Total Excess Fees"), less any amount of unpaid quarterly fees owed but withheld by MF Global prior to receiving a refund of its overpayments (the "Net Refund Due"); (ii) is authorized to calculate MF Global's quarterly UST fees using the Pre-Amendment Fee Schedule for the period beginning with Q3 2019 through the duration of the chapter 11 cases of Holdings Ltd., Finco, and Holdings USA ("Future UST Fees"); and (iii) is authorized to withhold payment of quarterly fees incurred in Q3 2019 (in the aggregate amount of $12,350.00 as calculated under the Pre-Amendment Fee Schedule (Preston Decl. ¶ 24)), Q4 2019 (estimated to be at least at least $44,625 in the aggregate as calculated under the Pre-Amendment Fee Schedule (Preston Decl. ¶ 39)), and any other Future UST Fees until all Excess Fees have been refunded, and to apply such withheld fees to reduce the Net Refund Due.

Respectfully Submitted,

Dated: November 21, 2019
New York, New York

/s/ *Jane Rue Wittstein*
Christopher DiPompeo
Admitted *Pro Hac Vice*
JONES DAY
51 Louisiana Ave., N.W.
Washington, DC 20001
Telephone: (202) 879-3939
Facsimile: (202) 626-1700
Email: cdipompeo@jonesday.com

-and-

Bruce Bennett
Jane Rue Wittstein
Furqaan Siddiqui
JONES DAY
250 Vesey Street
New York, NY 10281
Tel: (212) 326-3939
Fax: (212) 755-7306

Counsel for MF Global Holdings Ltd., as Plan Administrator

NAI-1509974949