



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE SUMITOMO COPPER LITIGATION

Master File

96 Civ. 4584 (RMB)  
96 Civ. 4940 (RMB)  
96 Civ. 5013 (RMB)

**ORDER**

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UPON the December 28, 2016 Notice of Motion (“Motion”); the accompanying Declaration of Ian T. Stoll, Esq., dated December 28, 2016, and the Exhibits annexed thereto; Plaintiffs’ Memorandum of Law, dated December 28, 2016, in Support of Motion for an Order Closing the Settlement Funds and Bank Accounts, Awarding Partial Reimbursement of Administrative Expenses, and Directing Deposit In An Interest-Bearing Account (“Pls.’ Mem.”); and no one, including Defendants, having responded to the Motion; and

UPON the duly noticed Court Conference held on May 17, 2017 at 2:00 p.m., at which Class Counsel appeared and discussed their ongoing efforts to locate 103 unresponsive Class members (i.e., those who have outstanding uncashed checks totaling approximately \$21,079.83) and distribute to them a share of the Settlement Funds; and no Class members having claimed any interest in such Settlement Funds, or appeared at the Court Conference (see Tr. of Hr’g, dated May 17, 2017); and

UPON the Declaration by Class Counsel, dated December 28, 2016, describing Class Counsel’s efforts to locate the 103 Class members who have not cashed their settlement checks, including conducting searches of public records through Westlaw and on the internet; undertaking “skip tracing,” and the mailing of letters via the U.S. Postal Service to Class

members with a last-known address in the United States; conducting telephone conversations with and sending emails to various domestic and foreign purported Class members, their representatives and/or persons reasonably believed to have knowledge of contact information for Class members; and conducting independent searches on social media; and

UPON all papers and proceedings herein;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. DISTRIBUTIONS TO CLASS MEMBERS. Class Counsel obtained two judgments, in October 1999 and June 2001 totaling \$149,250,000. Class Counsel and the Settlement Administrator have made three Court ordered distributions pursuant to Plans of Allocation from the Settlement Funds to approximately 1,477 Class members on or about August 5, 2002, June 16, 2004, and October 25, 2005, totaling \$123,580,525.66, for, according to Class Counsel, a rate of effective distribution of 99.64%.<sup>1</sup>

2. REASONABLE EFFORTS. The Court finds that Class Counsel and the Settlement Administrator have made reasonable efforts to locate and compensate the 103 unresponsive Class members.

3. CHECKS DISTRIBUTED TO CLASS MEMBERS. Checks distributed to but uncashed by those Class members set forth on Exhibit A and Exhibit B hereto, in the total amount of \$21,079.83, will be paid into the Court Registry Investment System (“CRIS”) on July 21, 2017 unless, following the “final” notice described in paragraph 5 below, claimed by Class members by June 23, 2017. See ¶ 4 infra.

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<sup>1</sup> The difference between the two Judgments (\$149,250,000) and the total distributions to Class members (\$123,580,525.66) is \$25,669,474.34 (exclusive of accrued interest). Approximately \$38,958,790 was paid as legal fees and claims administration fees and expenses. (See Order, dated Nov. 15, 1999; Order, dated June 26, 2001; Order, dated Aug. 10, 2005.)

4. REMAINING UNDISTRIBUTED FUNDS. As of April 30, 2017, the Settlement Funds held an additional \$135,807.56 in “undistributed settlement funds.” Class Counsel argues that it is “not feasible” to make further distributions of these (\$135,807.56) funds to Class members. (See Pls.’ Mem. at 15-21 (“[A]n additional pro rata distribution” is foreclosed “by reason of the ‘onerous’ task of locating Class members and the economic impracticability of attempting to distribute the small residual amount.”)); see also In re Citigroup Inc. Sec. Litig., 199 F. Supp. 3d 845, 848 (S.D.N.Y. 2016) (where \$374,820 remained in settlement funds “constitut[ing] 0.064 percent of the original \$590 million fund”); S.E.C. v. Bear, Stearns & Co. Inc., 626 F. Supp. 2d 402, 414 (S.D.N.Y. 2009) (“A district court has ‘broad discretionary powers’ with regard to ‘equitable decrees involving the distribution of any unclaimed class action fund.’” (quoting Van Gemert v. Boeing Co., 739 F.2d 730, 737 (2d Cir. 1984)) (directing distribution of unclaimed funds to United States Treasury); Jones v. Nat’l Distillers, 56 F. Supp. 2d 355, 357 (S.D.N.Y. 1999).

On July 21, 2017, all of the remaining undistributed settlement funds shall be distributed, pursuant to Local Civil Rule 67.1, to the Clerk of the Court of the Southern District of New York. See CH Acquisitions 2, LLC v. Aquila Aviation, L.P., No. 16 Civ. 2030 (S.D.N.Y. Aug. 10, 2016) (where Court ordered deposit of a check “made payable to the Clerk of Court, Southern District of New York, into the Registry of this Court, and . . . the Clerk shall deposit the sum [] into the Court Registry Investment System”). The Clerk is hereby authorized to invest such funds received in an appropriate interest-bearing CRIS account. The Clerk is hereby further directed to deduct from the income on the investment a fee equal to ten per cent (10%) of the income earned, but not exceeding the fee authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office. See Id. (“the Clerk shall deduct from

the income on the investment a fee equal to ten percent (10%) of the income earned, but not exceeding the fee authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office”). Funds deposited with the CRIS shall remain on deposit for up to one (1) year, at which time all remaining funds will be caused by the Court or the Clerk to be deposited into the Unclaimed Funds in the United States Treasury in the name and to the credit of the United States.

5. FINAL NOTICE TO CLASS MEMBERS. Class Counsel are directed forthwith to provide final notification of this Order to all Class members by posting a copy of this Order to Class Counsel’s website, <http://www.lshllp.com>, together with a bold-face legend stating:

**“FINAL NOTICE OF DEADLINE TO CLAIM CLASS ACTION PROCEEDS”**

6. CLOSING OF SETTLEMENT FUNDS AND BANK ACCOUNTS. After complying with the foregoing provisions of this Order, Class Counsel is authorized on or after September 1, 2017, to take any and all reasonable steps to terminate the administration of the Settlements Funds, including closing the accounts associated with the Settlement Funds.

#### **Conclusion & Order**

**For the reasons stated above, Class Counsel’s motion [#449] is granted in part and denied in part.<sup>2</sup>** The Court respectfully directs the Clerk of Court to close the case.

Dated: New York, New York  
May 24, 2017



**RICHARD M. BERMAN, U.S.D.J.**

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<sup>2</sup> Any issues raised by Class Counsel not specifically addressed herein were considered by the Court on the merits and rejected.

# **EXHIBIT A**

**IN RE SUMITOMO COPPER LITIGATION, 96 Civ. 4584 (RMB)(S.D.N.Y.)**  
 Final Judgment and Order of Dismissal, October 8, 1999 (D.E 183, Order No. 67) ("1999 Judgment")  
**Undistributed Checks From June 16, 2004 Supplemental Distribution**

CLM #	CK AMNT	NAME 1
58	\$0.78	S PIKO MBOLEKWA
142	16.38	JAMES C ASMOS*
182	2.26	W H M NISSEN, C/O MRS M A G NISSEN*
193	17.11	JACK C LYMBURNER*
226	6.31	EMIL BOYCHUK & JAMES JARDINE
272	0.79	SUSAN GARLAND (PETER GARLAND)
275	11.54	DON HARVEY*
293	15.36	DIETER GROSSER
294	2.05	WOLFGANG BUSCH
297	3.70	RUDIGER TIPPELT
299	12.84	HARALD KAPPEL*
300	0.72	VALENTIN DOLL*
301	3.52	FRANK SPEIDEL*
303	5.10	ALBERT KRIEGER*
344	1.75	ROGER WEINBERG & MARGARET WEINBERG JT WROS
381	2.18	DR WINKLER WERNER*
435	133.36	LAURENCE M PALUCH & SUZANNE PALUCH
473	5.00	FLOYD S WARD & SOPHIA E WARD
487	1.44	BRYAN D SCHULTZ*
494	41.99	BRIAN WILLIAM JAMIESON*
505	28.40	JIM DIEDERICH
508	1.40	KARIN DEERMAN & EDWARD EUGENE DEERMAN
535	2.83	TERRY LERMAN & TERESA E GRUNWALD TEN COM
597	4.23	JAMES F PARR & TAMARA M PARR
616	54.03	MICHAEL OGDEN
630	60.18	GEORGE MCALLISTER*
650	0.48	FRANCESCO ROSSELLI
714	4.39	JEFF I STEWART*
779	6.50	ANTHONY MARICEVIC*
809	65.36	MANFORD J SCHIER*
853	25.43	THEODORE CHAU*
858	12.27	AGNEL J RODRICKS & JOHN AGNEL RODRICKS
978	333.67	Triantafillos D. Vavanellos*
1042	3.00	DAN MILOSEVICH
1110	0.65	KIWI PROPERTIES (HOWDEN) LTD
1112	2.44	H GORDON LEWIS
1131	9.86	MICKEY PROPADOVICH
1163	7.02	KAREN L KEIT
1222	0.59	PAUL J BOTTARI*
1248	28.87	WICOR INVESTMENT CONSULTING, WISER & CORTESE WICOR FINANCIAL LTD*
1249	18.33	ANDREW SHIRA
1269	10.25	STEVEN PASKASH
1339	1.23	RONALD R WERTH
1354	6.79	ANDREW R H VENNING*
1388	1.15	DANIEL C TURMAN
45	\$973.53	uncashed checks

CLM #	CK AMNT	NAME 1
558	\$31.30	SALLY L GETZ
671	11.62	MICHAEL CORRIVEAU
831	953.55	Morgan Stanley Alternative Investment Partners*
862	0.14	JULIO GARCIA
1239	1.39	KEVIN G MC CORMAC*
1330	9.86	RICHARD T KIMBELL
6	\$1,007.86	checks - refused

51	\$1,981.39	checks uncashed/refused
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\*Claimant with checks issued under both the 1999 Judgment and the 2001 Judgments.

## **EXHIBIT B**



*IN RE SUMITOMO COPPER LITIGATION*, 96 Civ. 4584 (RMB)(S.D.N.Y.)  
 Final Judgment and Order of Dismissal, June 21, 2001 (D.E. 315, 316, Order Nos. 102, 103) ("2001 Judgments")  
 Undistributed Checks From October 25, 2005 Distribution

CLM #	CK AMNT	NAME
142	\$11.68	JAMES C ASMOS*
182	3.69	W H M NISSEN, C/O MRS. M A G NISSEN*
193	17.25	JACK C LYMBURNER*
262	5.17	PHILIP B GREEN
275	11.13	DON HARVEY*
278	3.65	GLEN ROSS & CAROL ROSS
280	9.04	WILLIAM D HALLORAN, DECEASED
295	17.38	KAJ VON WEDELSTAEDT
299	11.38	HARALD KAPPEL*
300	1.78	VALENTIN DOLL*
301	9.61	FRANK SPEIDEL*
303	4.52	ALBERT KRIEGER*
381	5.37	DR WINKLER WERNER*
425	124.23	ANWAR WAZEN & AYSEKUL WAZEN
428	1,607.18	ELM FINANCIAL, INC
449	8.94	ROBIN LEE ROSS
487	2.96	BRYAN D SCHULTZ*
492	97.91	CLAUDIO G TSCHANDER
494	78.59	BRIAN WILLIAM JAMIESON*
630	75.43	GEORGE MCALLISTER*
644	22.89	WILFRED CAPLAN
714	4.25	JEFF I STEWART*
779	1.98	ANTHONY MARICEVIC*
809	55.61	MANFORD J SCHIER*
853	24.64	THEODORE CHAU*
854	77.17	MOHAMED ALI HOSNI RABBAT & BASHIRA M NASSAN
877	36.19	TINBERG INVESTMENTS
880	37.41	WONG YAT CHING
978	320.35	TRIANAFILLOS D VAVANELLOS*
1023	35.66	CRESTA TRADING MANAGERS LIMITED
1035	5.97	WILLIAM WILLOCK THOMSON
1221	936.92	ZAINUDDIN MD. YUSOF & MOHAMMED RASHID RANDEREE
1222	1.93	PAUL J BOTTARI*
1243	9.44	FRED FOWLES
1248	39.79	WICOR INVESTMENT CONSULTING, WISER & CORTESE WICOR FINANCIAL LTD*
1259	8.58	CHRISTIAN C WILES
1354	16.69	ANDREW R H VENNING*
1441	147.27	BASIL GREGORY BEREZA
2159	1,078.55	GUILLERMO Z GUMUCIO
2170	197.41	KORS JAN DROST
2194	11.69	SURESH C PATEL
2514	5,787.81	LEO NORONHA
2574	111.43	NEIL D VAN REENEN
<b>43</b>	<b>\$11,076.52</b>	<b>uncashed checks</b>

CLM #	CK AMNT	NAME
469	\$9.97	BLAZE TRADING LTD LIABILITY CO, ATTN: BILL GERHANDT
806	743.46	CIPHER COMPOSITE FUND LP
831	942.94	MS COMMODITY INVESTMENT PORTFOLIO LP*
878	18.94	ATLANTIC CAPITAL CONSULTANTS LLC, c/o ML INVMT PRNTS INC, ATTN MICHAEL PUNGELLO

900	983.31	THE FUTURES EXPANSION FUND LMT PARTNERS, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
904	1,023.41	ML HYMAN BECK LTD, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
909	36.97	ML JAPAN INVESTMENT PARTNERS LTD, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
910	2,169.53	JWH GLOBAL ASSET LTD SER A, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
911	21.22	THE LEYDEN INVESTMENT FUND LTD, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
920	352.36	THE SECTOR STRATEGY FUND INTL LTD, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
921	10.18	THE SECTOR STRATEGY FUND INTL II LTD, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
922	956.86	THE SECTOR STATEGY FD INTL III LTD, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
923	204.82	THE SECTOR STRATEGY FUND INTL IV LTD, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
924	264.38	THE SECTOR STRATEGY FUND INTL V LTD, c/o ML INVMT PRTNS INC, ATTN MICHAEL PUNGELLO
1208	9.86	ROGER K SMITH
1239	1.83	KEVIN G MC CORMAC*
1358	22.02	ESTATE OF BILL YORK
2179	22.57	MINE KAO & MARTHA L KAW
2229	189.95	ALEXANDER F WOOD
2426	37.34	ALAN REDDELL
<b>20</b>	<b>\$8,021.92</b>	<b>checks - refused</b>
<b>63</b>	<b>\$19,098.44</b>	<b>checks uncashed/refused</b>

\*Claimant with checks issued under both the 1999 Judgment and the 2001 Judgments.