

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CASE NO.: 2:09-CV-229-FTM-29SPC

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

FOUNDING PARTNERS CAPITAL MANAGEMENT
and WILLIAM L. GUNLICKS,

Defendants,

FOUNDING PARTNERS STABLE-VALUE FUND, LP,
FOUNDING PARTNERS STABLE-VALUE FUND II, LP,
FOUNDING PARTNERS GLOBAL FUND, LTD., and
FOUNDING PARTNERS HYBRID-VALUE FUND, LP,

Relief Defendants.

**THE RECEIVER'S MOTION FOR LEAVE TO MAKE
SECOND DISTRIBUTION TO FP OFFSHORE BY WIRE TRANSFER**

Receiver Daniel S. Newman, not individually, but solely in his capacity as the Court-appointed receiver ("Receiver") for Founding Partners Capital Management Company; Founding Partners Stable-Value Fund, L.P.; Founding Partners Stable-Value Fund II, L.P.; Founding Partners Global Fund, Ltd.; and Founding Partners Hybrid-Value Fund, L.P., respectfully requests entry of an order permitting him to make a second Court-approved distribution to FP Offshore by wire transfer.

The SEC does not object to the relief sought in this Motion.

1. In or about April 2016, Founding Partners Global Fund Inc. (“Global Inc.”), approved Claimant No. 217, transferred its entire claim to FP Offshore Ltd. (“FP Offshore”). [D.E. 469].

2. On May 20, 2016, the Court entered an order permitting the Receiver to update his books and records to reflect FP Offshore as Claimant No. 217. [D.E. 470]. The Court further ordered the Receiver to make subsequent distributions to FP Offshore. *Id.*

3. On June 8, 2021, the Receiver sought leave to make a distribution to FP Offshore by wire transfer, as opposed to written check. [D.E. 544]. As explained in that motion, according to FP Offshore, distribution by check would significantly delay FP Offshore from making further distributions to its own sub-investors. As such, FP Offshore requested to receive its distribution by wire.

4. The Court approved distribution to FP Offshore by wire on June 24, 2021. [D.E. 546].

5. Now, as the Receiver prepares to make a second distribution to FP Offshore, FP Offshore has once again requested that distribution be made to it by wire transfer.

6. In an abundance of caution, and given the amount of the distribution, the Receiver respectfully requests leave to make his second distribution to FP Offshore by wire transfer, in accordance with wire instructions provided by FP Offshore’s counsel, Mark Bloom. After consulting with FP Offshore, the Receiver believes good cause exists to make the distribution by wire transfer in accordance with the instructions to be provided by Mr. Bloom.¹

¹ In the Court-approved settlement with Ernst & Young LLP (“E&Y”), the Receiver indicated that he “intended” to make second distribution payments by check. [D.E. 597-1 at p. 24]. The Receiver does not believe this language forecloses making a distribution to FP Offshore by wire, for good cause, and the Receiver has also confirmed with E&Y that it does not object to the relief sought in this Motion.

WHEREFORE, the Receiver respectfully requests leave to distribute funds to FP Offshore by wire transfer, using wiring instructions provided by Mr. Bloom, counsel for FP Offshore, as opposed to distribution by check.

Dated: April 5, 2024.

Respectfully submitted,

NELSON MULLINS BROAD AND CASSEL

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By: /s/ Christopher Cavallo
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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

By: /s/ Christopher Cavallo
Christopher Cavallo, Esq.