

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Amaranth Natural Gas Commodities Litigation

MASTER FILE No. 07 CV 6377 (CM)

This Document Relates To:

All Actions

**AFFIDAVIT OF JASON RABE
IN SUPPORT OF A SECOND DISTRIBUTION OF THE NET SETTLEMENT FUND
AND REQUEST FOR ADMINISTRATION FEES AND EXPENSES**

Jason Rabe, being duly sworn, deposes and says:

1. I submit this affidavit in order to provide the Court and the parties to the above-captioned litigation (the “Action”) with information regarding the continued administration of the Settlement Fund in this Action. I am over 21 years of age and am not a party to this Action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. I am a Program Manager with the firm of Rust Consulting, Inc. (“Rust”). Rust was retained as the Claims Administrator to provide notice to the potential members of the Class, process the Proof of Claim and Release forms (“Claims”) in the Settlement, calculate Allowed Claims as defined in the Plan of Allocation approved by this Court, and distribute the Net Settlement Fund to authorized claimants, pursuant to this Court’s Order of August 10, 2016 (“Distribution Order”).

3. I further submit this Affidavit in order to provide the Court and the parties to the above captioned litigation with: (a) an update on the distribution and reconciliation of the Settlement

Fund; (b) a recommendation for the available Reserve Funds to revert back to the Settlement Fund for distribution to eligible authorized claimants; (c) a recommendation for conducting a second distribution from the Settlement Fund to all 365 authorized claimants; and (d) a request for the Court's approval of administrative decisions relating to the two claims that did not submit documentation as more fully outlined in ¶ 10 below.

INITIAL DISTRIBUTION OF NET SETTLEMENT FUND

4. Pursuant to the Court's Order for Distribution of Net Settlement Fund and Incentive Awards dated August 10, 2016 (the "Distribution Order"), Rust issued 365 payments to authorized claimants. The Net Settlement Fund of \$45,248,992.64, net of attorneys' fees and expenses, notice and settlement administration fees and expenses, as well as incentive awards, was distributed on September 19, 2016.

5. Rust also distributed four Court-approved incentive awards to the three Court-appointed Class representatives (*i.e.*, Roberto E. Calle Gracey, John F. Special and Gregory H. Smith) and plaintiff Alan H. Martin totaling \$200,000.

6. Rust conducted an initial distribution of checks to authorized claimants on September 19, 2016. 332 of the 365 claimants promptly cashed their checks. As in other settlements Rust has administered, Rust reissued and re-mailed checks to Claimants in this matter because: a) the original check was returned to Rust by the United States Postal Service ("USPS") with a forwarding address; b) the original check was returned to Rust by the USPS without a forwarding address but Rust was able to ascertain the Claimant's current address; c) the Claimant requested a reissue due to matters relating to operation of law issues (*e.g.*, estates and trust closing, deaths, divorce, etc.); and d) the original check was stale-dated and the Claimant requested that a new check be issued.

7. Rust took steps to encourage the 33 claimants with uncashed checks after the initial mailing to cash them, including following up with claimants via e-mail and telephone. Rust conducted three separate mailings of reissued checks to claimants between October 25, 2016 and January 19, 2017. For checks that remained uncashed after these mailings, Rust reached out to claimants to request wire instructions to reissue and send payments via wire. After obtaining this information, Rust wired funds to 3 claimants to complete the first distribution.

8. As of July 20, 2017, 100% of the Net Settlement Fund (excluding the reserve fund) has been successfully distributed on a *pro rata* basis to authorized claimants and there is no current balance.

RESERVE FUND AND RECOMMENDED ADDITIONAL DISTRIBUTION

9. Pursuant to the Distribution Order, a reserve fund was created in the amount of \$5,238,000 to be used as more fully described in the Affidavit of Jason Rabe, Dkt. No. 422 (the “Rabe Affidavit”), to pay claims that were awaiting further documentation or data, as well as pay any amended claims or amounts mistakenly omitted from the initial distribution. As of July 20, 2017, the Reserve Fund has a balance of \$5,246,248.43.

10. As stated in the Rabe Affidavit, at the time that Plaintiffs moved for the initial distribution of the Net Settlement Fund, Rust was awaiting documentation from two claimants in order to correctly process their claims. Rabe Affidavit, ¶ 26. The Court granted an extension for these claimants to submit the required additional documentation. *See* Dkt. Nos. 420, 428. Despite numerous attempts and correspondence sent to the counsel representing the two claimants, Rust has still not received any additional information for these claims. On March 3, 2017, two letters were sent to counsel representing both parties via FedEx with a response due date of April 3, 2017. As of July 13, 2017, no response has been received. A copy of each letter is attached hereto as Exhibit A.

As a result of their non-response, Rust is denying these two claims entirely. Rust will send to counsel for both parties a letter notifying them that their claims have been denied, along with copies of Plaintiff's Motion for a Second Distribution of the Net Settlement Fund.

11. Accordingly, Rust recommends a second distribution to the 365 authorized claimants from the initial distribution. Rust will issue from the Reserve Fund (approximately \$5,225,364.43, net of any fees and expenses) a second distribution check, on a *pro rata* basis, to all 365 authorized claimants.

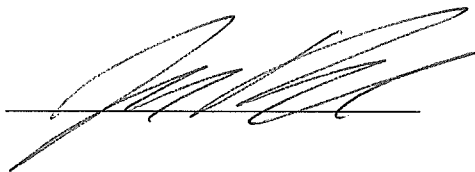
12. Rust further recommends that the second distribution checks include the following notation: "This check will remain valid for 45 days. Please deposit this check promptly. If this check is not cashed within 45 days, you will forfeit your right to participate in the Net Settlement Fund and your *pro rata* share will revert back to the Net Settlement Fund. No reissue requests will be honored after the 45 days."

13. Additionally, Rust respectfully requests payment of professional fees and out-of-pocket expenses in the amount of \$20,884 to complete a second distribution of checks to eligible claimants. An invoice for these fees and expenses is attached hereto as Exhibit B.

14. Following final disposition of the Net Settlement Fund, Rust requests the Court's authorization to take certain steps necessary to wind down the Settlement administration framework. Specifically, if the distribution herein results in a full and final distribution of all remaining monies in the Net Settlement Fund, Rust requests the Court's authorization to, two months after such distribution has become final, close the post office box, disconnect the telephone number and remove the Settlement website and e-mail address from the internet, all of which were specifically designed and created for the Settlement. Additionally, Rust requests the Court's authorization to (a)

destroy all paper copies of claim forms, supporting documents and other correspondence, six months after a full and final distribution has occurred; (b) destroy all electronic copies of claim forms, supporting documents and other corresponded, one year after final distribution has occurred; and (c) close the Settlement Fund.

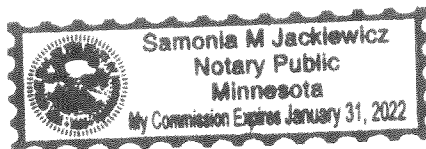
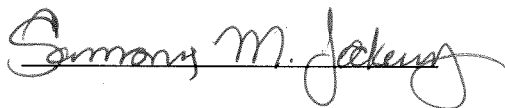
15. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Jason Rabe

SWORN to before me this

21st day of July, 2017



Notary Public

EXHIBIT A

AMARANTH COMMODITIES LITIGATION
C/O RUST CONSULTING, INC.
P.O. BOX 1911
FARIBAULT, MN 55021-1940
PHONE: 1 (855) 460-1525



March 3, 2017

RESPONSE DUE DATE: April 3, 2017

WILLIAM J DOCKERY AS ATTORNEY FOR 1
STEPHEN ARDIZZONE
120 BROADWAY
32ND FL
NEW YORK, NY 10271

FINAL NOTICE OF DEFICIENCY * Claim No: 49**

Dear Claimant:

Pursuant to the Order For Distribution of Net Settlement Fund and Incentive Awards authorized by the United States District Court Southern District of New York dated August 10, 2016, a distribution has occurred in the In Re: Amaranth Commodities Litigation Settlement and a reserve fund has been created.

Despite numerous correspondences including conference calls, emails and letters in the past, you still have failed to provide any adequate documentation or qualifying transactions to support your claim. Please respond by the Response Due Date above with Futures Commission Merchant (“FCM”) or broker trading records and/or other acceptable documentation of your qualifying transactions in eligible NYMEX natural gas futures contracts.

YOUR RESPONSE MUST INCLUDE A COPY OF THIS NOTICE, as well as the appropriate documentation so that it is received at the address listed above. Examples of acceptable documentation include photocopies of your FCM or broker confirmation slips, daily trade statements, month end account statements, applicable year-end statement(s), or other documents evidencing each purchase and sale of the eligible NYMEX natural gas futures contracts.

IF YOU FAIL TO RESPOND, OR IF YOU RESPOND WITHOUT THE APPROPRIATE DOCUMENTATION, YOUR CLAIM WILL BE REJECTED IN WHOLE AND WILL NOT BE ELIGIBLE TO RECEIVE A DISTRIBUTION FROM THE RESERVE FUND. Claimants whose claims have been rejected in whole or in part have the right to a review by the Court. If contesting the rejection, within thirty (30) days after the mailing of this notice, send us a written statement indicating your grounds for contesting the rejection, along with supporting documentation and A COPY OF THIS NOTICE, and requesting a review thereof by the Court. If a dispute concerning this claim cannot otherwise be resolved, Lead Counsel shall thereafter present the request for review to the Court, which will have final decision-making power over any such dispute(s).

If you have any questions, please call us toll-free at 1 (855) 460-1525.

Sincerely,

Claims Administrator



AMARANTH COMMODITIES LITIGATION
C/O RUST CONSULTING, INC.
P.O. BOX 1911
FARIBAULT, MN 55021-1940
PHONE: 1 (855) 460-1525



March 3, 2017

RESPONSE DUE DATE: April 3, 2017

WILLIAM J DOCKERY AS ATTORNEY FOR
AMY LUBECK
120 BROADWAY
32ND FL
NEW YORK, NY 10271

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FINAL NOTICE OF DEFICIENCY * Claim No: 108**

Dear Claimant:

Pursuant to the Order For Distribution of Net Settlement Fund and Incentive Awards authorized by the United States District Court Southern District of New York dated August 10, 2016, a distribution has occurred in the In Re: Amaranth Commodities Litigation Settlement and a reserve fund has been created.

Despite numerous correspondences including conference calls, emails and letters in the past, you still have failed to provide any adequate documentation or qualifying transactions to support your claim. Please respond by the Response Due Date above with Futures Commission Merchant (“FCM”) or broker trading records and/or other acceptable documentation of your qualifying transactions in eligible NYMEX natural gas futures contracts.

YOUR RESPONSE MUST INCLUDE A COPY OF THIS NOTICE, as well as the appropriate documentation so that it is received at the address listed above. Examples of acceptable documentation include photocopies of your FCM or broker confirmation slips, daily trade statements, month end account statements, applicable year-end statement(s), or other documents evidencing each purchase and sale of the eligible NYMEX natural gas futures contracts.

IF YOU FAIL TO RESPOND, OR IF YOU RESPOND WITHOUT THE APPROPRIATE DOCUMENTATION, YOUR CLAIM WILL BE REJECTED IN WHOLE AND WILL NOT BE ELIGIBLE TO RECEIVE A DISTRIBUTION FROM THE RESERVE FUND. Claimants whose claims have been rejected in whole or in part have the right to a review by the Court. If contesting the rejection, within thirty (30) days after the mailing of this notice, send us a written statement indicating your grounds for contesting the rejection, along with supporting documentation and A COPY OF THIS NOTICE, and requesting a review thereof by the Court. If a dispute concerning this claim cannot otherwise be resolved, Lead Counsel shall thereafter present the request for review to the Court, which will have final decision-making power over any such dispute(s).

If you have any questions, please call us toll-free at 1 (855) 460-1525.

Sincerely,

Claims Administrator



EXHIBIT B



Invoice

625 MARQUETTE AVENUE, SUITE 880
 MINNEAPOLIS, MN 55402
 P 612.359.2000 | F 612.359.2050
 WWW.RUSTCONSULTING.COM
 FEDERAL ID #: 41-1813634

DATE: 07/20/17
 INVOICE #: 17-1310
 MATTER #: 829400

TO: Geoffrey Horn
 Lowey Dannenberg Cohen & Hart, P.C.
 One North Broadway
 White Plains, NY 10601
GHorn@lowey.com

PROJECT
<i>In re: Amaranth Natural Gas Commodities Litigation Estimate to Complete - Second Distribution</i>

ESTIMATE TO COMPLETE SECOND DISTRIBUTION

Call Center	\$	3,321.00
Website Hosting & Modification		2,270.00
Correspondence		800.00
Fund Distribution		6,387.00
Reissue Processing		1,496.00
Tax Reporting		1,500.00
Project Management		2,880.00
Technical Consulting		1,620.00
PO Box Rental		610.00

TOTAL INVOICE \$ 20,884.00

WIRE INFORMATION

ACCOUNT #: 8093434387
 ABA/ROUTING # WIRE or ACH: 111014325
 BANK: BANK OF TEXAS, DALLAS, TX 75225
 BANK CONTACT: MAYRA LANDEROS 214.987.8817
 REFERENCE: INVOICE NUMBER

RUST

PAYMENT MAILING ADDRESS:

P O BOX 142589
 DRAWER #9051
 Irving, TX 75014-2589