

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO, INC. SECURITIES LITIGATION : 05 Civ. 8626 (JSR)  
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**NOTICE OF LEAD PLAINTIFFS’ MOTION FOR APPROVAL  
OF PAYMENT OF ELIGIBLE CLAIMS-IN-PROCESS,  
LATE ADJUSTED CLAIMS, AND LATE SUBMITTED CLAIMS**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Stephen J. Cirami in Support of Lead Plaintiffs’ Motion for Approval of Payment of Eligible Claims-in-Process, Late Adjusted Claims, and Late Submitted Claims (the “Cirami Declaration”) submitted on behalf of Court-appointed claims administrator The Garden City Group, Inc. (“GCG”), and Lead Plaintiffs’ Memorandum in Support of Motion for Approval of Payment of Eligible Claims-in-Process, Late Adjusted Claims, and Late Submitted Claims, and pursuant to Federal Rule of Civil Procedure 23(e), Lead Plaintiffs RH Capital Associates LLC and Pacific Investment Management Company LLC will move this Court, before the Honorable Jed S. Rakoff, United States District Judge, at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, to enter the accompanying [Proposed] Order Approving Payment of Eligible Claims-in-Process, Late Adjusted Claims, and Late Submitted Claims (the “Order”), which will, *inter alia*: (i) approve GCG’s administrative determinations accepting and rejecting claims as set forth in the Cirami Declaration; (ii) direct the distribution from the Reserve established pursuant to the Court’s Order Approving Distribution Plan (Docket No. 793) to those claimants whose claims have been newly approved by the Court and as to which adjustments have been approved by the Court; (iii) establish procedures for payment of

newly-approved or adjusted claims that are subject to assignments to the Refco Private Actions Trust; (iv) authorize payment of GCG's additional fees and expenses incurred and to be incurred in connection with the proposed distribution; and (v) provide that the Court retains jurisdiction to consider any further applications concerning the administration of the Settlements, and such other and further relief as the Court deems appropriate.<sup>1</sup>

The proposed Order is attached hereto as Exhibit 1.

Dated: New York, New York  
September 22, 2011

Respectfully submitted,

**GRANT & EISENHOFER P.A.**

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

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<sup>1</sup> All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Cirami Declaration.

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO, INC. SECURITIES LITIGATION : 05 Civ. 8626 (JSR)  
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**[PROPOSED] ORDER APPROVING PAYMENT OF ELIGIBLE CLAIMS-IN-PROCESS, LATE ADJUSTED CLAIMS, AND LATE SUBMITTED CLAIMS**

Lead Plaintiffs, on notice to Defendants’ counsel, moved this Court for an order (i) approving the Claims Administrator’s determinations regarding the acceptance and rejection of those claims that were referred to as “Claims-in-Process” in this Court’s May 2, 2011 Order Approving Distribution Plan, so that distributions can be made in accordance with that May 2, 2011 Order to those claimants whose Claims-in-Process are eligible for payment, (ii) approving for payment certain claims that were rejected in the entirety or in part in the Court’s May 2, 2011 Order but as to which the deficiencies have subsequently been cured, and (iii) approving for payment certain otherwise eligible claims that were submitted after the claims submission deadline and that are not included in the Claims-in-Process. The Court having considered all the materials and arguments submitted in support of the motion, including the Declaration of Stephen J. Cirami in Support of Lead Plaintiffs’ Motion for Approval of Payment of Eligible Claims-in-Process, Late Adjusted Claims, and Late Submitted Claims (the “Cirami Declaration”), and Lead Plaintiffs’ Memorandum in Support of Motion for Approval of Payment of Claims-in-Process, Late Adjusted Claims, and Late Submitted Claims, submitted therewith;

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. This Order incorporates by reference the definitions in the Cirami Declaration.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class Members.

3. Lead Plaintiffs' Motion For Approval Of Payment of Eligible Claims-in-Process, Late Adjusted Claims, and Late Submitted Claims is **GRANTED**. Accordingly,

a. The Court hereby adopts the administrative recommendation of the Court-approved Claims Administrator, The Garden City Group, Inc. ("GCG") to accept the eligible Claim-in-Process set forth on Exhibit A-1 to the Cirami Declaration;

b. The Court hereby adopts GCG's administrative recommendation to reject the wholly ineligible or otherwise deficient claims as set forth on Exhibits A-2 and C-2 to the Cirami Declaration;

c. The Court hereby adopts GCG's administrative recommendations to accept the Late Adjusted Claims as set forth on Exhibit B to the Cirami Declaration, and hereby modifies its May 2, 2011 Order Approving Distribution Plan insofar as that Order authorized (i) rejection of the Late Adjusted Claims, or (ii) acceptance of the Late Adjusted Claims for Recognized Loss amounts less than those set forth on Exhibit B to the Cirami Declaration;

d. The Court hereby adopts GCG's recommendation to approve the otherwise eligible Late Submitted Claims set forth on Exhibit C-1 to the Cirami Declaration;

e. GCG is directed to conduct a Claims-in-Process Distribution in accordance with paragraph 3(f) of this Court's May 2, 2011 Order Approving Distribution Plan, using funds from the Reserve to bring the eligible Claim-in-Process, Late Adjusted Claims, and Late Submitted Claims (listed on Exhibits A-1, B and C-1 to the Cirami Declaration) into parity with the claims that were paid pursuant to the May 2, 2011 Order; provided, however, that GCG shall defer payment of Claim Nos. 5361, 8237, 9236, 9237, 9250, 1002063 and

1002112 (which have been identified by the Trustee of the Refco Private Actions Trust as claims that have been assigned, in part, to the Private Actions Trust) until the Trustee has notified those claimants of the assignment and afforded them an opportunity to object, in accordance with the procedures and timelines set forth in this Court's June 2, 2011 Order Modifying Distribution Plan (Docket No. 800), and until any such objections have been resolved.

f. All claimants who or which will receive payments pursuant to this Order shall be deemed Authorized Claimants.

g. In order to encourage the Authorized Claimants who or which will receive payments pursuant to this Order to cash their distribution checks promptly and to avoid or reduce future expenses relating to uncashed distribution checks, all distribution checks with respect to the eligible Claim-in-Process, Late Adjusted Claims, and Late Submitted Claims shall bear the following notation: "CASH PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT CASHED BY [DATE 120 DAYS AFTER ISSUE DATE]";

h. Authorized Claimants who do not cash their distribution checks within the time allotted will irrevocably forfeit all recovery from the Settlements, and the funds allocated to all such stale-dated checks will be available in the re-distribution to other Authorized Claimants. Similarly, Authorized Claimants who do not cash subsequent distributions within the time allotted will irrevocably forfeit any further recovery from the Settlements; and

i. The fees and expenses incurred and to be incurred by GCG as set forth in Exhibit D to the Cirami Declaration are approved; accordingly, Lead Counsel shall direct

payment of \$36,027.85 out of the Reserve to GCG for the unpaid balance of such fees and expenses.

4. This Court retains jurisdiction to consider any further applications concerning the administration of the Settlements, and such other and further relief as this Court deems appropriate.

SO ORDERED:

Dated: New York, New York

\_\_\_\_\_, 2011

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HONORABLE JED S. RAKOFF  
UNITED STATES DISTRICT JUDGE