

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:20-CV-21887-DPG

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

DANIEL FINGERHUT,
DIGITAL PLATINUM, INC., DIGITAL
PLATINUM, LTD., HUF MEDIYA
(A/K/A HOOOF MEDIA), TAL VALARIOLA,
and ITAY BARAK,

Defendants,

and

AICEL CARBONERO,

Relief Defendant.

_____ /

RECEIVER'S NINTH STATUS REPORT

Melanie E. Damian, the court-appointed Receiver (the "Receiver") in the above-captioned enforcement action ("CFTC Enforcement Action"), submits her ninth status report concerning the status of the Receivership, established pursuant to the Court's Order Appointing Temporary Receiver [ECF No. 33] (the "Appointment Order"). This interim report sets forth the Receiver's activities and efforts to fulfill her duties under the Appointment Order for the period from November 1, 2023, through January 31, 2025 (the "Reporting Period").

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I. INTRODUCTION

Since her appointment on May 8, 2020, the Receiver, with the assistance of her retained professionals, has worked diligently to continue to fulfill her duties and obligations as set forth in the Appointment Order, to preserve the assets and records of the Receivership Estate (“Receivership Estate” or “Estate”) and to collect disgorgement funds from the Defendants in accordance with the Consent Order for Permanent Injunction as to Defendant Daniel Fingerhut [ECF No. 283] and the Consent Order for Permanent Injunction as to Defendants Digital Platinum LTD and Tal Valariola and Itay Barak (collectively the “Israeli Defendants” and together with Mr. Fingerhut, the “Receivership Defendants”) [ECF No. 284] (collectively the “Permanent Injunctions”). The Receiver will continue to seek payment of Receivership Defendants’ remaining disgorgement obligations and the disclosure of their financial activities to ensure they are making all reasonable efforts to meet those obligations and comply with this Court’s Orders in a timely manner.

From the entry of the Permanent Injunction through the end of this Reporting Period, the Israeli Defendants have paid \$2,542,040.38 of their \$3 million disgorgement obligation, continuing to make periodic payments towards their disgorgement obligation during the Reporting Period.

Throughout this receivership, only \$50,188.49 was credited towards Defendant Fingerhut’s \$400,011 disgorgement obligation based on the \$45,769 in cash that the Receiver recovered and the \$4,419.49 in proceeds from the liquidation of his investment account during a prior reporting period. Defendant Fingerhut has claimed, through his counsel, that from May 2020 until the present he has not had a job, income, or funds to make any disgorgement payments and thus has not made any payments during the Reporting Period. Pursuant to order to show cause why Mr.

Fingerhut should not be held in contempt of Court for failing to provide to the Receiver financial disclosures to support his claims, Mr. Fingerhut provided satisfactory financial disclosures and agreed to provide periodic updated financial disclosures upon request by the Receiver. *See* ECF No. 337.

During the prior Reporting Period, the Court entered a Final Judgment against Relief Defendant Aicel Carbonero, requiring her to disgorge and pay to the Estate \$389,000 plus post-judgment interest. Prior to entry of the Final Judgment, the Receiver had recovered \$126,088.22 from Ms. Carbonero's accounts, which amount was applied to her disgorgement obligation. But, Ms. Carbonero did not make any further payments to the Estate or respond to counsel's inquiries regarding the timing of payments. Accordingly, the Receiver filed a motion to impose a constructive trust over Ms. Carbonero's residence in favor of the Estate, which resulted in Ms. Carbonero agreeing to pay the entire balance of her disgorgement obligation within six (6) months. During the Reporting Period, Ms. Carbonero made periodic payments and satisfied her disgorgement obligation in full.

Finally, during a prior reporting period, the Receiver implemented the Court-approved claims process, collected and reviewed claims from defrauded investors, sent out initial and final determinations of allowed and disallowed claims, and sent out the initial distribution to claimants with allowed claims. During this Reporting Period, the Receiver continued to respond to claimant inquiries concerning the timing of the final distribution, which the Receiver will soon propose to this Court, in accordance with the Court-approved Distribution Plan. *See* ECF Nos. 301 and 307.

II. THE RECEIVER'S STATUS REPORTS

The Appointment Order requires the Receiver to file with the Court and serve on all parties periodic reports summarizing efforts to marshal and collect assets, administer the Receivership

Estate, and otherwise perform the duties mandated by the Appointment Order. *See* ECF No. 33 at p. 4.

Prior to filing this Report, the Receiver filed eight status reports detailing the Receiver's continued efforts to carry out her duties and obligations as set forth in the Appointment Order. *See* ECF Nos. 125, 192, 242, 270, 308, 320, 334, and 364. This Report covers the period from November 1, 2023 through January 31, 2025.

A. Final Judgment against Relief Defendant Establishing Disgorgement Obligation

During the prior Reporting Period, on May 11, 2023, the Court entered the Final Judgment against Ms. Carbonero, setting her disgorgement obligation at \$389,000 plus post-judgment interest at the statutory rate. *See* ECF No. 341. And, the Court charged the Receiver with collecting that disgorgement obligation and incorporating any amount collected into the Estate for the benefit of its claimants. *See id.*

At first, Ms. Carbonero was unresponsive to the Receiver's collection attempts and did not propose a payment plan. After the Receiver filed a Motion for Imposition of Constructive Trust on Judgment Debtor Aicel Carbonero's Residence [ECF No. 345] (the "Constructive Trust Motion"), Ms. Carbonero and the Receiver reached an agreement pursuant to which Ms. Carbonero paid her full disgorgement obligation. *See* ECF No. 361.

B. Default Final Judgment and Permanent Injunction against Digital Platinum, Inc. and Huf Mediya, Ltd., Establishing Disgorgement Obligation and Civil Monetary Penalty

On February 8, 2023, the Court granted the CFTC's Motion for Final Judgment by Default, Permanent Injunction, Civil Monetary Penalties and Other Statutory and Equitable Relief against Defendants Digital Platinum, Inc. and Huf Mediya, Ltd. *See* ECF No. 288. The Court also entered Default Final Judgment against those Defendants, jointly and severally, establishing the

disgorgement amount and civil monetary penalty, as described *supra*, and charging the Receiver with collecting the disgorgement amount. *See* ECF No. 333. These entities have been defunct since before the commencement of the receivership and have not paid any of their disgorgement amounts. The Receiver does not believe it is a good use of Estate resources to engage in collection efforts against these entities.

III. STATUS AND ACTIVITIES OF THE RECEIVERSHIP (NOVEMBER 1, 2023 THROUGH JANUARY 31, 2025)

The Receiver provides herein a detailed description of the status of the operations and assets of the Receivership Estate and her efforts and accomplishments with respect to her duties under the Court's Orders during the current Reporting Period.

A. Receivership Receipts, Disbursements, and Assets

As of January 31, 2025, the Receiver held funds totaling \$725,123.49 in her fiduciary account for the Receivership Estate at City National Bank in Miami, Florida. *See* Receivership Receipts and Disbursements set forth in the Standardized Fund Accounting Report attached hereto as **Exhibit A**. In addition to this cash on hand, the Estate includes the following assets:

- Assets of Defendants Valariola and Barak in Israel, where they reside (value of assets has not been fully determined); and
- The right to collect the balances of the disgorgement obligations of Defendants Digital Platinum LTD, Valariola, Barak, and Fingerhut, as set forth above.

B. Receiver's Continued Efforts to Locate and Marshal Records and Assets of the Defendants

During the Reporting Period, the Receiver continued to fulfill her duties and obligations under the Appointment Order by focusing on collecting the disgorgement obligations from the Receivership Defendants pursuant to the Permanent Injunctions and Final Judgment against them and from Relief Defendant Carbonero pursuant to the Final Judgment against her.

1. Defendant Fingerhut's Failure to Make Payments Towards His Disgorgement Obligation

Prior to the Reporting Period and the entry of the Permanent Injunction against Defendant Fingerhut, the Receiver had taken possession of \$45,769 in cash held by or for the benefit of Mr. Fingerhut and had frozen an investment account of Mr. Fingerhut, pursuant to the Preliminary Injunction and the Appointment Order. After the Court entered the Permanent Injunction, the Receiver, pursuant thereto, had Mr. Fingerhut's investment account liquidated and the sale proceeds totaling \$4,419.49 transferred to the Estate. To date, a total of \$50,188.49 of Defendant Fingerhut's assets was credited towards his \$400,011 disgorgement obligation established in the Permanent Injunction. Since then, including during the Reporting Period, Defendant Fingerhut has not made any further payments towards his disgorgement obligation. The Receiver requested, pursuant to the Permanent Injunction, that Defendant Fingerhut provide updated financial disclosures of his assets and income and make payment towards his disgorgement obligation, but the Receiver did not receive a response. Accordingly, the Receiver filed a Motion for an order to show cause, and the Court granted the Receiver's Motion and ordered Defendant Fingerhut to appear before the Court on September 27, 2023 and show cause why he should not be held in contempt of court.

During the Reporting Period, the Receiver was able to settle the matter with Defendant Fingerhut who provided updated financial disclosures and a declaration concerning his lack of employment and current inability to pay his disgorgement obligation. Further, Mr. Fingerhut agreed to cooperate with the Receiver, including by responding to future requests for financial information, in connection with her efforts to collect the remaining balance of his disgorgement obligation. *See* Notice of Compliance filed by the Receiver [ECF No. 362]. The Receiver continues to monitor Mr. Fingerhut's financial condition and ability to pay his remaining

disgorgement obligation.

2. Israeli Defendants' Payments Towards Their Disgorgement Obligation

During the Reporting Period, the Receiver worked with counsel for the Israeli Defendants to collect payments totaling \$39,017.10 transferred from those Defendants in 34 periodic transfers to the Receiver's fiduciary account for the Estate in partial satisfaction of their disgorgement obligation under the Permanent Injunctions. *See* Exhibit A.

C. Receiver's Implementation of Court-Approved Claims Process

During a prior reporting period, on February 9, 2022, the Receiver filed her Motion to Approve (A) Noticing and Claims Administration Process (the "Claims Process") and (B) Plan of Distribution (the "Distribution Plan") [ECF No. 301] ("Motion to Approve Claims Process"), which the Court granted on March 2, 2022 [ECF No. 307]. The Receiver has now completed the Claims Process by processing a total of 223 claims, with 148 allowed claims totaling \$4,087,125.96 from claimants of this Receivership Estate and claimants of the related receivership estate for All In Publishing, LLC and Gasher, Inc. – defendants in a related CFTC enforcement action which had defrauded many of same customers in an overlapping scheme. No claimant appealed the Receiver's Final Determination by filing an appeal with this Court.

As of the close of the prior reporting period, claimants from this Estate were sent distributions totaling \$1,838,576.38 (representing 80% of the Estate's cash-on-hand), which provided amounts equal to 45% of each claimant's unpaid, allowed claim. *See* ECF No. 327. During this Reporting Period, the Receiver responded to claimant inquiries regarding the timing of the final distribution. The Receiver is preparing a motion to terminate the All In Publishing, LLC and Gasher, Inc. receivership estate and will propose to transfer the balance of funds remaining in that estate to this Receivership Estate. In addition, the Receiver is working to collect

the final payments from the Israeli Defendants so that she can make the final distribution and wind down this Estate.

D. Receiver's Financial Advisor, Forensic Accountants, and Tax Professionals

During the initial reporting period, the Receiver retained Kapila Mukamal LLP ("Kapila") as her financial advisor, forensic accountants, and tax professionals to assist her to fulfill her duties under the Appointment Order. Kapila rendered tax preparation services during the Reporting Period.

IV. EXPENSES AND DISBURSEMENTS OF THE ESTATE

On December 8, 2023, the Receiver filed Receiver's Eighth Interim Application for an Order Approving and Authorizing Payment of Fees and Expenses of Receiver and Her Professionals [ECF No. 365], seeking approval and authorization of payment for professional fees and expenses for the period from January 1, 2023 through October 31, 2023. On February 20, 2024, the Court granted that fee motion and the Receiver made a disbursement for professional fees and expenses of \$47,327.40. *See* ECF NO. 366. During the Reporting Period, the Receiver made disbursements from her fiduciary account for the Receivership Estate in the amount of \$2,191.80 for payment of expenses for the Claims Process and Distribution Plan and document storage. *See* Exhibit A.

V. RECEIVER'S RECOMMENDATIONS AND CONCLUSION

In light of her ongoing efforts to fulfill her duties under the Appointment Order and to carry out the terms of the Permanent Injunctions, including collecting the Defendants' respective disgorgement amounts, as well as her efforts to complete the Court-approved Plan of Distribution [*see* ECF Nos. 301, 307] and make a final distribution, the Receiver recommends that the Receivership continue to permit the Receiver to complete this remaining work, with plans to move

for discharge before the end of 2025.

The Receiver will continue to work with her team of professionals and with counsel for the Defendants to collect amounts sufficient to satisfy their disgorgement obligations under the Court's Orders, confirm Defendant Fingerhut's claimed inability to pay his disgorgement obligation, and, as necessary, work with counsel for the CFTC to enforce the Permanent Injunctions in Israel and other countries in which such Defendants may hold assets in accordance with applicable international law.

Finally, the Receiver will continue to perform all other duties as mandated by the Court's Orders and will update the Court on a periodic basis as to the status of her efforts.

Respectfully submitted this 7th day of February, 2025.

Respectfully submitted,

/s/ Kenneth Dante Murena
Kenneth Dante Murena, Esq.
Florida Bar No. 147486
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Counsel for Melanie E. Damian,
Court-Appointed Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via electronic transmission via this Court's CM/ECF filing system on February 7, 2025, on all counsel or parties who have appeared in the above-styled action.

/s/ Kenneth Dante Murena
Kenneth Dante Murena, Esq.
Counsel for Melanie E. Damian,
Court-Appointed Receiver

EXHIBIT A

Melanie E. Damian, Esq., as Receiver
DAMIAN VALORI CULMO
1000 Brickell Avenue, Suite 1020
Miami, Florida 33131

STANDARDIZED FUND ACCOUNTING REPORT
CIVIL – RECEIVERSHIP FUND FOR CFTC v. DIGITAL PLATINUM, INC, ET AL.
Reporting Period 11/1/2023 to 1/31/2025

		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 11/1/2023):	\$ -	\$ -	\$581,478.28
	Increases in Fund Balance:			
Line 2	Business Income	\$ -	\$ -	\$ -
Line 3	Cash and Securities	\$ -	\$ -	\$ -
Line 4	Interest/Dividend Income [1]	\$ 15,673.84	\$ 15,673.84	\$ 15,673.84
Line 5	Business Asset Liquidation [1]	\$ 177,490.57	\$ 177,490.57	\$ 177,490.57
Line 6	Personal Asset Liquidation	\$ -	\$ -	\$ -
Line 7	Third-Party Litigation Income	\$ -	\$ -	\$ -
Line 8	Miscellaneous - Other	\$ -	\$ -	\$ -
	Total Funds Available			\$ 774,642.69
	(Lines 1-8):			
	Decreases in Fund Balance:			
Line 9	Disbursements to Investors			
Line 10	Disbursements for Business Operations [1]	\$ 2,191.80	\$ 2,191.80	\$ 2,191.80
Line 10a	Disbursements to Receiver or Other Professionals [1]	\$ 47,327.40	\$ 47,327.40	\$ 47,327.40
Line 10b	Business Asset Expenses		\$ -	
Line 10c	Personal Asset Expenses:	\$ -	\$ -	\$ -
Line 10d	Investment Expenses	\$ -	\$ -	\$ -
Line 10e	Third-Party Litigation	\$ -	\$ -	\$ -
Line 10f	Tax Administrator Fees and Bonds	\$ -	\$ -	\$ -
Line 10g	Federal and State Tax Payments	\$ -	\$ -	\$ -
	Total Disbursements for Receivership Operations	\$ 49,519.20	\$ 49,519.20	\$ 49,519.20
Line 11	Disbursements for Distribution Expenses Paid by the Fund:	\$ -	\$ -	\$ -
Line 11a	Distribution Plan Development Expenses:	\$ -	\$ -	\$ -
Line 11b	Distribution Plan Implementation Expenses:	\$ -	\$ -	\$ -
Line 12	Disbursements to Court/Other	\$ -	\$ -	\$ -

Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees	\$ -	\$ -	\$ -
Line 12b	Federal Tax Payments	\$ -	\$ -	\$ -
	Total Disbursements to Court/Other			
	Total Funds Disbursed (Lines 9- 11)			\$ 49,519.20
Line 13	Ending Balance (As of January 31, 2025)			\$ 725,123.49
Line 14	Ending Balance of Fund – Net Assets:			
Line 14a	Cash & Cash Equivalents			\$ 725,123.49
Line 14b	Investments			\$ -
Line 14c	Other Assets or Uncleared Funds			
	Total Ending Balance of Fund – Net Assets			\$ 725,123.49

[1] Funds were received and disbursed to administer the Receivership Estate and its assets. See Receipts and Expenses in Attachment 1 hereto.

Respectfully submitted,

Damian Valori Culmo
1000 Brickell Avenue, Suite 1020
Miami, Florida 33131
Telephone: 305-371-3960
Facsimile: 305-371-3965

/s/ Melanie E. Damian
Melanie E. Damian
Court-Appointed Receiver

Attachment 1 to Exhibit A to Receiver's Report**CFTC v. Digital Platinum LLC/Fingerhut et al. - Receipts of Fiduciary Account**

Date	From	Amount
11/20/2023	Disgorgement payment from Israel Defendants	\$ 1,963.00
11/29/2023	Disgorgement payment from Israel Defendants	\$ 1,008.00
11/30/2023	Payment from Aicel Carbonero	\$ 30,000.00
12/7/2023	Disgorgement payment from Israel Defendants	\$ 1,580.00
12/18/2023	Disgorgement payment from Israel Defendants	\$ 1,130.00
1/2/2024	Disgorgement payment from Israel Defendants	\$ 1,570.00
1/2/2024	Payment from Aicel Carbonero	\$ 30,000.00
1/16/2024	Disgorgement payment from Israel Defendants	\$ 1,100.00
1/31/2024	Disgorgement payment from Aicel Carbonero	\$ 30,000.00
2/5/2024	Disgorgement payment from Israel Defendants	\$ 1,100.61
2/20/2024	Disgorgement payment from Israel Defendants	\$ 1,149.61
2/29/2024	Payment from Aicel Carbonero	\$ 30,000.00
3/1/2024	Disgorgement payment from Israel Defendants	\$ 1,169.61
3/18/2024	Disgorgement payment from Israel Defendants	\$ 1,229.61
3/29/2024	Payment from Aicel Carbonero	\$ 18,473.47
4/2/2024	Disgorgement payment from Israel Defendants	\$ 1,145.61
4/15/2024	Disgorgement payment from Israel Defendants	\$ 1,049.61
5/1/2024	Disgorgement payment from Israel Defendants	\$ 451.00
5/1/2024	Disgorgement payment from Israel Defendants	\$ 1,269.61
5/14/2024	Disgorgement payment from Israel Defendants	\$ 1,019.61
5/16/2024	Disgorgement payment from Israel Defendants	\$ 1,199.61
6/3/2024	Disgorgement payment from Israel Defendants	\$ 1,359.61
6/7/2024	Disgorgement payment from Israel Defendants	\$ 1,000.00
6/20/2024	Disgorgement payment from Israel Defendants	\$ 974.00
7/2/2024	Disgorgement payment from Israel Defendants	\$ 1,000.00
7/16/2024	Disgorgement payment from Israel Defendants	\$ 900.00
7/30/2024	Disgorgement payment from Israel Defendants	\$ 1,100.00
8/9/2024	Disgorgement payment from Israel Defendants	\$ 1,120.00
8/19/2024	Disgorgement payment from Israel Defendants	\$ 1,050.00
9/4/2024	Disgorgement payment from Israel Defendants	\$ 1,124.00
9/18/2024	Disgorgement payment from Israel Defendants	\$ 1,024.00
10/1/2024	Disgorgement payment from Israel Defendants	\$ 1,100.00
10/15/2024	Disgorgement payment from Israel Defendants	\$ 1,070.00
11/4/2024	Disgorgement payment from Israel Defendants	\$ 1,450.00
11/18/2024	Disgorgement payment from Israel Defendants	\$ 1,120.00
12/2/2024	Disgorgement payment from Israel Defendants	\$ 1,300.00
12/18/2024	Disgorgement payment from Israel Defendants	\$ 1,150.00
1/2/2025	Disgorgement payment from Israel Defendants	\$ 1,070.00
1/22/2025	Disgorgement payment from Israel Defendants	\$ 970.00
Total		\$ 177,490.57

Attachment 1 to Exhibit A to Receiver's Report**CFTC v. Digital Platinum LLC/Fingerhut et al. - Receipts of Fiduciary Account****Bank Interest**

Date	Account	Amount
11/30/2023	City National Bank	\$ 7.18
12/31/2023	City National Bank	\$ 7.34
1/31/2024	City National Bank	\$ 8.77
2/28/2024	City National Bank	\$ 7.93
3/31/2024	City National Bank	\$ 7.90
4/30/2024	City National Bank	\$ 9.02
5/31/2024	City National Bank	\$ 8.78
6/30/2024	City National Bank	\$ 3.43
6/30/2024	City National Bank	\$ 1,209.86
7/31/2024	City National Bank	\$ 0.07
7/31/2024	City National Bank	\$ 2,499.72
8/31/2024	City National Bank	\$ 0.10
8/31/2024	City National Bank	\$ 2,223.67
9/30/2024	City National Bank	\$ 2,068.73
9/30/2024	City National Bank	\$ 0.13
10/31/2024	City National Bank	\$ 2,074.88
10/31/2024	City National Bank	\$ 0.16
11/30/2024	City National Bank	\$ 1,835.54
11/30/2024	City National Bank	\$ 0.18
12/31/2024	City National Bank	\$ 1,876.89
12/31/2024	City National Bank	\$ 0.22
1/31/2025	City National Bank	\$ 1,823.10
1/31/2025	City National Bank	\$ 0.24
Total Interest		\$ 15,673.84

GRAND TOTAL OF RECEIPTS **\$ 193,164.41**

Attachment 1 to Exhibit A to Receiver's Report**CFTC v. Digital Platinum LLC/Fingerhut et al. - Expenses of Fiduciary Account**

Date	Payable	Amount
11/16/2023	Teris	\$ 165.00
11/20/2023	Stretto	\$ 203.50
12/22/2023	Teris	\$ 158.60
12/22/2023	Stretto	\$ 298.00
1/12/2024	Teris	\$ 158.56
2/20/2024	Teris	\$ 158.56
3/15/2024	Teris	\$ 158.56
4/10/2024	Teris	\$ 158.56
7/9/2024	Teris	\$ 36.78
7/9/2024	Teris	\$ 36.78
8/16/2024	Teris	\$ 36.78
8/19/2024	Teris	\$ 36.78
9/16/2024	Teris	\$ 36.78
10/24/2024	Teris	\$ 36.78
11/24/2024	Teris	\$ 36.78
12/18/2024	Teris	\$ 475.00
Total of Expenses		\$ 2,191.80

Professional Fees

Date	Payable	Amount
2/21/2024	Damian & Valori LLP	\$ 44,970.50
2/21/2024	Kapila Mukamal	\$ 2,356.90
Total Professional Fees		\$ 47,327.40

GRAND TOTAL OF EXPENSES **\$ 49,519.20**