

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

BARKI, LLC, a North Carolina limited
liability company;
BRUCE C. KRAMER, an individual,

Defendants, and

RHONDA A. KRAMER, an individual, and
FOREST GLEN FARM, LLC, a North
Carolina limited liability company,

Relief Defendants.

CASE NO. 3:09-CV-106 (GCM)

**RECEIVER'S MOTION FOR (1) APPROVAL OF PROPOSED CLAIMS
VERIFICATION PROCEDURES, CLAIMS BAR DATE, AND PROPOSED
CLAIMS DISTRIBUTION METHOD; AND (2) FOR AUTHORITY
TO MAKE INTERIM DISTRIBUTIONS TO INVESTORS**

Joseph W. Grier, III, the Court-appointed receiver ("Receiver") in this action (the "Receiver"), through counsel, hereby presents this *Receiver's Motion for (1) Approval of Proposed Claims Verification Procedures, Claims Bar Date, and Proposed Distribution Method; and (2) for Authority to Make Interim Distributions to Investors* (the "Motion") and in support thereof, respectfully shows the Court as follows:

BACKGROUND

This case was initiated with a *Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief* (the "Complaint") filed on March 17, 2009 by the U.S. Commodity Futures Trading Commission (the "CFTC") against the above-named Defendants and Relief

Defendants. (Compl., D.E. 1.) The Complaint alleged that Defendants operated Defendant Barki, LLC (“Barki”) as a Ponzi scheme. (*Id.*)

The CFTC obtained a statutory restraining order (the “SRO”) from this Court on March 17, 2009. (Order Granting Pl.’s Mot. for Statutory Restraining Order, Appointment of Receiver, an Accounting, Expedited Disc. and to Show Cause Regarding Preliminary Inj., and Other Equitable Relief (the “Receivership Order”) (D.E. 5)).

On March 24, 2009, the Receiver was appointed to replace the receiver named in the Receivership Order. (Order Appointing Receiver, D.E. 14).

Since that date, the Receiver has worked actively to marshal and liquidate the Defendants’ and Relief Defendants’ assets (collectively, the “Receivership Estate”) in accordance with the Receivership Order. Thus far, the Receiver has recovered \$2,346,901.39, and less Court-approved expenses of \$59,440.88, a balance of \$2,287,460.51 is on deposit in the Receivership account. The Receiver is still in the process of selling property of the Receivership Estate. Notably, the Receiver has not yet identified a buyer for the real property owned by the Estate.

The funds held by the Receiver are subject to the following claims: (a) Approximately \$200,000 in life insurance proceeds collected by the Receiver, less amounts paid by the Receiver to or for the benefit of Ms. Kramer (approximately \$9,237.46) and less the premiums paid by Barki for the life insurance, are subject to the claim of Rhonda Kramer, who maintains that the life insurance policies in question were purchased prior to the creation and wrongful acts of Barki; and (b) D. Hunter Edwards, Jr., Don H. Edwards, and Nancy T. Edwards (the “Edwards”) obtained a pre-judgment attachment (the “Pre-Judgment Attachment”) in the Mecklenburg County Superior Court prior to the issuance of the SRO by this Court. The Pre-Judgment

Attachment purports to attach all bank accounts maintained in the name of Barki, LLC, Bruce C. Kramer and Rhonda A. Kramer at BB&T and Wells Fargo & Co. The Receiver has collected the sum of \$74,888.84 from Wachovia Bank and anticipates collecting the approximate sum of \$115,000 from BB&T and understands that the Edwards claim these sums are subject to the Pre-Judgment Attachment.

The Receiver will distribute available funds, less the costs of administration of the Receivership and any other disbursements approved by the Court, to customers of Defendant Barki, LLC (the "Investors"), pursuant to a distribution method approved by the Court. The Receiver does not expect to recover sufficient funds to refund all of the Investors' capital investments in full.

On May 18, 2009, the Receiver filed the *Receiver's First Report* indicating that "[o]nce the Receiver is satisfied from his forensic investigation as to the amounts invested by customers and the withdrawals received by customers, and the Court has approved the Receiver's claims process, including a claims deadline, the Receiver plans to recommend approval of an interim distribution." (Rec'r First Rep., D.E. 43 at 8).

RELIEF REQUESTED

By this Motion, the Receiver seeks approval of a proposed procedure for verifying Investors' claims for their losses, including a notice to Investors relative to the claims process, a proof of claim verification form, and a proposed bar date by which Investors must submit verification of their claims.

In addition, the Receiver requests approval of a proposed method of calculating distributions to Investors.

The Receiver also seeks authority to make interim distributions to Investors in an amount

deemed by him to be appropriate, taking into account the several claims to funds held by the Receiver and providing for a reserve for expenses necessary for the continued administration of the receivership.

ARGUMENT

A. Claims Verification Process and Claims Bar Date

The Receiver intends to recommend to the Court allowance of the principal amount invested by each customer (deposits), not to include any profits reported by Barki and, for purposes of distributions by the Receiver, to take into account any distributions from Barki to customers (withdrawals). This approach of disregarding false profits has been adopted in similar receivership cases resulting from Ponzi schemes. See, e.g., *Commodity Futures Trading Comm'n v. Equity Financial Group, LLC*, 2005 WL 2143975 at *23-24 (D.N.J. 2005).

An exhibit to the *Receiver's First Report* showed the CFTC's analysis of Barki's records indicating total investments of \$44,620,759.84 and total withdrawals by customers of \$26,058,344.08. (Rec'r First Rep., Ex. A). Some customers took no withdrawals and others received withdrawals of well over 100% of their principal investments. The Receiver and the CFTC continue to work together to conduct a forensic accounting of Barki's financial records; therefore, the preliminary determination attached to the *Receiver's First Report* remains subject to adjustment after the conclusion of that forensic examination. The Receiver's forensic accounting will be compared with Investor claims before any distributions are made.

The Receiver has considered the appropriate process for collecting and verifying Investor claims (the "Claims Process"), based in part on research of receivership cases involving Ponzi schemes. This Motion outlines the Receiver's recommendation to the Court as to the appropriate procedures for this case. The Receiver's proposed claims process is as follows:

1. Notice of Claim Verification Process and Claims Bar Date; Claim Form.

The Receiver will send a Notice of Claims Deadline and Claim Verification Form for Investors in Barki, LLC (“Notice”) to all Investors. The Notice will be accompanied by a Claim Verification Form (“Claim Form”); Investors who wish to submit claims to the Receiver will be instructed by the Notice to complete and return the Claim Form with accompanying documentation. A proposed Notice and Claim Form are attached as Exhibit A. Any Claim Verification Forms not properly documented will be subject to objection by the Receiver. Proper documentation includes but is not limited to the following:

- (a) Investor name, street address, and email address;
- (b) Investor’s Barki account number;
- (c) Identification of any additional Barki account(s) maintained by the Investor or a related party;
- (d) A summary of each deposit and withdrawal made by the Investor;
- (e) Documentation of all deposits and withdrawals, including but not limited to, wire transfer confirmations or canceled checks; Barki confirmations; and Barki statements reflecting deposits and withdrawals; and
- (f) To the extent applicable, documentation of any transfers between Investor accounts.

Claim Verification Forms must be signed and notarized attesting that, to the best of the Investor’s knowledge, the Claim Form is true, correct, complete and accurate according to the Investor’s records. Completed Claim Verification Forms and documentation may be submitted to the Receiver by email at BarkiReceivership@grierlaw.com or by mail addressed to:

Barki Claims
Grier Furr & Crisp, PA
101 North Tryon Street, Suite 1240
Charlotte, NC 28246

The Receiver's review of Investor claims will be independent of any review that may have been conducted by the CFTC. Therefore, any documents previously provided to the CFTC must be re-submitted to the Receiver as attachments to a Claim Form for a claim to be considered.

2. Claims Bar Date.

The Receiver will establish a Claims Bar Date of 30 days from the date of the Notice. Claim Verification Forms and accompanying documentation will be due to the Receiver by the designated bar date ("Claims Bar Date"). The Claims Bar Date will appear prominently on the Notice. In addition, the Claims Bar Date will be posted on the receivership website, www.grierlaw.com/Barki. The Receiver will recommend to the Court that claims submitted after the Claims Bar Date not be allowed and that no distribution be made on such claims. The Receiver will have authority, for good cause, to extend the Claims Bar Date for particular Investors for up to an additional 30 days. Any such extension by the Receiver must be in writing and pursuant to a written request made prior to the expiration of the then applicable Claims Bar Date.

3. Claims Review Process and Claims Report.

Once the Claims Bar Date has run, the Receiver will review each Claim Form and the accompanying documentation and verify the amount of each claim submitted. The Receiver will calculate each Investor's claimed deposit amount and pre-Receivership disbursements to arrive at amounts for each Investor's total investment ("Total Investment") and total withdrawals ("Total Withdrawals"). The Receiver will then file and serve on all Investors a report of claims with the Court outlining the Receiver's recommendation as to each Investor's Total Investment and Total Withdrawals (the "Claims Report"). All distributions made to Investors will be

calculated based on these Total Investment and Total Withdrawals amounts. To the extent that any claim is objectionable, the Claims Report will set forth the basis for the Receiver's objection. The Receiver may object to Investor claims on any of the following grounds: (1) the claim was tardy; (2) the claim is not adequately documented; (3) the claimed amounts include false profits; (4) the claim is not against Barki; and (5) any other valid objection. To protect Investor privacy, the Claims Report will list Investors by Barki account numbers only.

4. Procedure for Objections to Claims Report.

Each Investor will have the opportunity to object to all or any portion of the Claims Report filed by the Receiver, including the amounts of that Investor's Total Investment and Total Withdrawals listed on the Claims Report or to respond to any objection raised by the Receiver by filing a written objection or response with the Court and serving a copy on the Receiver. Any such Investor objections or responses will be required to be submitted within 30 days after the date the Claims Report is filed and served on Investors. The Receiver will attempt to negotiate with any objecting or responding Investor as to that Investor's Total Investment and Total Withdrawals. Objections that are not resolved through negotiations will be resolved by the Court.

5. Order on Claims Report.

The Court's Order on the Claims Report will reflect a final determination of the amounts of the Total Investment and Total Withdrawals and any claims objected to by the Receiver.

The Receiver intends to begin the Claims Process as expeditiously as possible. Accordingly, the Receiver proposes to distribute the Notice to Investors immediately after entry of an Order approving this Motion.

The Receiver believes that the Claims Process reflects a reasonable method of soliciting

and evaluating Investor claims. Further, the Receiver contends that the proposed Claims Process affords Investors appropriate due process. For these reasons, the Receiver respectfully requests that the Claims Process be approved. However, the Receiver understands that Investors may have objections to the Claims Process outlined here and requests that Investors be afforded the opportunity to raise those objections with the Court.

B. Method for Calculating Claims Distributions

District courts have wide latitude in exercising their equitable powers in approving a distribution plan or receivership funds. *United States v. Durham*, 86 F.3d 70, 73 (5th Cir. 1996); *SEC v. Amerifirst Funding, Inc.*, 2008 WL 919546 at *3 (N.D. Tex. March 13, 2008). However, there are “no neat answers to the various equities involved” in Ponzi scheme cases where each of the investors were equally responsible for trusting the wrongdoer. *Johnson v. Studholme*, 619 F.Supp. 1347, 1350 (D. Colo. 1985), *aff’d sub nom, Johnson v. Hendricks*, 833 F.2d 908 (10th Cir. 1987).

In cases where there are both net losers—those who put in more than they took out—and net winners—those who took out more than they put in—among the Ponzi scheme victims, there are four basic distribution methods that may be employed for making distributions on allowed claims. *Commodity Futures Trading Comm’n v. Equity Financial Group, LLC*, 2005 WL 2143975 at *24 (D.N.J. 2005). These methods include:

- (1) ignoring withdrawals for purposes of calculating claims;
- (2) requiring that all withdrawals be repaid and then redistributed through the distribution process;
- (3) employing a net investment method in which any withdrawals are subtracted from the total amount invested and the claim is allowed in the net amount (the “net investment method”); or

- (4) allowing investors to keep withdrawals they received but crediting such withdrawals against the investors' pro rata shares based on the full amounts invested (the "rising tide method").

Id.; see also, *CFTC v. Franklin*, 652 F.Supp. 163, 169 (W.D.N.C. 1986), *rev'd in part sub nom, Anderson v. Stephens*, 875 F.2d 76 (4th Cir. 1989).

The first method, ignoring withdrawals, would allow a net winner investor, who had already received distributions, to receive the same pro rata distribution as net losers. *Equity Financial Group*, 2005 WL 2143975 at *25. This option would reward some investors "for their random good fortune while depleting the share available to investors who were equally situated but less lucky." *Franklin*, 652 F.Supp. at 169. This method is clearly inequitable. *Id.*

The second method of requiring all investors to repay any withdrawals they received could have the advantage of leveling the playing field among investors. The Fourth Circuit noted in 1924 that "[i]t may be that exact equitable equality among victims" can only be attained "in an equitable proceeding, under which all of [the wrongdoer's] customers would be charged with all payments made to them, and such contribution among them required as would be necessary to give each victim the same percent of the money paid in." *Eby v. Ashley*, 1 F.2d 971, 973 (4th Cir. 1924). However, this method has the distinct disadvantages of increasing the costs of administering the receivership case by burdening investors with returning any funds received and saddling the receiver with the responsibility of collecting those funds. See *Commodity Futures Trading Comm'n v. Hoffberg*, 1993 WL 441984 at *2 (N.D. Ill. 1993). This option is also impracticable because it would require some investors to return funds that they may not have any longer. *Franklin*, 652 F.Supp. at 169. Therefore, any advantages that would result from recovering all withdrawals to customers evaporate based on consideration of the collection issues involved. See *id.*

Other courts have considered and adopted the net investment method in which any withdrawals are subtracted from the total amount invested and distribution is made on the resulting net amount. *CFTC v. Topworth Int'l, Ltd.*, 205 F.3d 1109, 1115-16 (9th Cir. 2000) (noting that the court's local rules required making distributions based on "net equity"); *Franklin*, 652 F.Supp. at 169-70; *Amerifirst Funding*, 2008 WL 919546 at *6. At first blush, this distribution method appears to treat every investor the same. However, this method can result in inequality among investors because it fails to adequately account for previous withdrawals.

The following is an illustration of how the net investment method could increase, rather than decrease, equality among investors:

Investor	Total Investment	Total Withdrawals	Net Investment	Net Investment Method 25% Distribution	Total Return Including Previous Withdrawals
Investor A	\$200,000	-0-	\$200,000	\$50,000	25%
Investor B	\$200,000	\$20,000	\$180,000	\$45,000	32.5%
Investor C	\$200,000	\$75,000	\$125,000	\$106,250	53.125%
Investor D ¹	\$200,000	\$210,000	(\$10,000)	-0-	105%

As illustrated here, under the net investment method, Investor A, who took no withdrawals, would receive a total return of 25%, while Investor C, who had already withdrawn a portion of his investment before the receivership case was initiated, would end up with recovering 53.125% of his initial investment. Therefore, the net investment method results in some investors receiving back more than their proportionate share. *Hoffberg*, 1993 WL 441984 at *2. Although more people would receive money from the pot of funds to be distributed under the net investment method, that method would result in investors who had not previously taken

¹ This illustration assumes no recovery from net winner investors. As indicated in the *Receiver's First Report*, the Receiver intends to seek the recovery of the excess received by any customer over that customer's principal investment. (Rec'r First Rep. at 7).

distributions recovering a smaller portion of their total investment. *Hoffberg*, 1993 WL 441984 at *3.²

Under the rising tide method, each investor retains funds previously received, but those withdrawals are credited against the investor's pro rata shares, which are calculated based on the total amount invested. *Equity Financial Group*, 2005 WL 2143975 at *24. The formula applied to calculate distributions under the rising tide method is as follows: (actual dollars invested x pro rata multiplier) less withdrawals previously received = distribution amount. *Id.* As an example, if a customer who invested \$100,000 also received a \$10,000 withdrawal, and a pro rata distribution of 25% is made, the distribution to the customer will be \$15,000, illustrated as follows: $(\$100,000 \times 25\%) - \$10,000 = \$15,000$. Under this methodology, distributions are made only to customers who received withdrawals that were less than the percentage distribution to be made by the receiver. *Id.* at *25. No distributions are made to customers who have already received withdrawals greater than the percentage distribution to be made. *Id.* This approach avoids the unfairness that would result if investors who had withdrawn up to the amount of their total investment were to receive additional distributions. *See Hoffberg*, 1993 WL 441984 at *3 (citing *CFTC v. Skorupskas*, No. 83-CV-1885DT (E.D. Mich. Aug. 22, 1988)). The following further illustrates how the rising tide method would work:

Investor	Total Investment	Total Withdrawals	Rising Tide Method 25% Distribution	Total Return Including Previous Withdrawals
Investor A	\$200,000	-0-	\$50,000	25%
Investor B	\$200,000	\$20,000	\$30,000	25%
Investor C	\$200,000	\$75,000	-0-	37.5%
Investor D	\$200,000	\$210,000	-0-	105%

² The court in the *Hoffberg* case did not use the terms "rising tide method" or "net investment method," although the formulas for the two distribution schemes considered in that case were the same as the schemes referred to by those names in *Equity Financial Group*. Compare *Hoffberg*, 1993 WL 441984 at *2, with *Equity Financial Group*, 2005 WL 2143975 at *24-25.

The Receiver recommends that the Court approve the rising tide method for distributions to be made in this case. In comparing the rising tide method with the net investment method, in instances where an investor took no withdrawals, the two methods result in the same percentage distribution. *Equity Financial Group*, 2005 WL 2143975 at *25. And under either scenario, those who received more than they invested would receive no further distributions. But the net investment method would benefit investors who withdrew up to but less than their full investment at the expense of other investors, because those investors would retain the full benefit of previous withdrawals *plus* receive a distribution calculated on the basis of net funds invested. *Id.* In contrast, the rising tide method provides for adjusting the distribution amount to take into account *all* amounts that each investor received. *Id.* Taking previous distributions into account disregards the Ponzi-scheme fiction of “profits” that supposedly accrued on the Investors accounts and, instead, treats each withdrawal an Investor made as a return of principal.

For these reasons, the Receiver believes that the rising tide method offers the best means of achieving equality among the Investors in this case. Nevertheless, the Receiver is aware that the rising tide method is not favored by all Investors. Accordingly, the Receiver requests that Investors be afforded an opportunity to object to the distribution method proposed in this Motion.

C. Proposed Interim Distribution

Based on the amount of funds currently on hand, less anticipated costs of administration, the Receiver proposes to make an interim distribution to Investors, in an amount determined by the Receiver after taking into account unresolved claims against funds held by the Receiver and an appropriate reserve for the future costs of administration of the receivership. This interim

distribution would be based on the Court's approval of the Receiver's Claims Report, to be filed after the Receiver's review of Investor Claim Verification Forms.

The Receiver notes that this Motion constitutes a request for authority to make an interim distribution only. After the Receivership Estate's real property and any other remaining assets are liquidated, the Receiver will request authority to make another distribution, based again on the Court's order on the Receiver's Claims Report.

D. Notice of This Motion.

The Receiver will email all Investors with valid email addresses notice of this Motion and will also serve Investors by first class mail to the extent that addresses are available. In addition, this Motion will be posted on the Receivership's webpage. Notice of this Motion will direct Investors to make any objections they have to the Motion in writing and to file the same with the Court, providing a copy to the Receiver.

WHEREFORE, the Receiver prays that the Court will enter an Order:

- (1) Approving the Receiver's proposed Claims Process, including the Notice, Claim Form, and Claims Bar Date;
- (2) Approving the rising tide method for calculating claims distributions in this case;
- (3) Authorizing the Receiver to make an interim distribution in an amount determined by the Receiver with the share disbursed to Investors based on any Claims Report subsequently approved by the Court; and
- (4) Granting such further relief as is just and proper.

This is the 23d day of June, 2009.

GRIER FURR & CRISP, PA

/s/ Joseph W. Grier, III

Joseph W. Grier, III (State Bar No. 7764)

A. Cotten Wright (State Bar No. 28162)

101 North Tryon Street, Suite 1240

Charlotte, North Carolina 28246

Phone: 704.375.3720; Fax: 704.332.0215
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Attorneys for Joseph W. Grier, III,
Court Appointed Receiver

CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically on June 23, 2009 through the Court's ECF system and that the parties and counsel listed below have been contemporaneously served via electronic service and or via U.S. Mail as indicated with a true and correct copy of the foregoing:

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Anne M. Termine
Gretchen L. Lowe
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Investors in Barki, LLC
Via email

This is the 23d day of June, 2009.

GRIER FURR & CRISP, PA

/s/ Joseph W. Grier, III
Joseph W. Grier, III (State Bar No. 7764)
A. Cotten Wright (State Bar No. 28162)
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*Attorneys for Joseph W. Grier, III,
Court Appointed Receiver*

EXHIBIT A

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**U.S. COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

**BARKI, LLC, a North Carolina limited
liability company;
BRUCE C. KRAMER, an individual,**

Defendants, and

**RHONDA A. KRAMER, an individual, and
FOREST GLEN FARM, LLC, a North
Carolina limited liability company,**

Relief Defendants.

CASE NO. 3:09-CV-106 (GCM)

**NOTICE OF CLAIMS DEADLINE AND CLAIM
VERIFICATION FORM FOR INVESTORS IN BARKI, LLC**

By Order of the Court entered on _____, investors in Barki, LLC (the “Investors”) seeking to assert claims against the assets of Barki, LLC, now in receivership (the “Barki Receivership”), are directed to complete a copy of this *Claim Verification Form for Investors in Barki, LLC* (the “Claim Verification Form”) and to submit the Claim Verification Form with supporting documentation to Joseph W. Grier, III, the Court-appointed receiver (the “Receiver”) in this action.

The deadline for filing Claim Verification Forms is _____, 2009 (the “Claims Bar Date”). Claim Verification Forms must be *received* by that date. Claim Verification Forms received after the Claims Bar Date will not be allowed and no distribution will be made on those claims.

To assert a claim, Investors must complete a Claim Verification Form, noting any changes necessary to ensure accuracy, sign the Claim Verification Form, and send it to the Receiver together with supporting documentation. Claim Verification Forms may be submitted either by email at barkireceivership@grierlaw.com, by facsimile at 704.332.0215, or by mail addressed as follows:

Barki Claims
Grier Furr & Crisp, PA
101 North Tryon Street, Suite 1240
Charlotte, NC 28246

The Receiver reserves the right to object to claims that are not supported by documentation evidencing the Investor's investments and withdrawals. If this documentation is not available, an explanation should be provided. If the documentation is voluminous (150 pages or more), the Investor may provide a summary. Any documents previously sent to the CFTC must be re-submitted to the Receiver as attachments to the Claim Verification Form. The Receiver may, for good cause shown, extend for up to 30 days the Claims Bar Date for individual Investors, based on a written request made to the Receiver prior to the expiration of the existing Claims Bar Date.

This is the ___ day of _____, 2009.

GRIER FURR & CRISP, PA

Joseph W. Grier, III (State Bar No. 7764)
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Court Appointed Receiver*

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

**U.S. COMMODITY FUTURES TRADING
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Defendants, and

**RHONDA A. KRAMER, an individual, and
FOREST GLEN FARM, LLC, a North
Carolina limited liability company,**

Relief Defendants.

CASE NO. 3:09-CV-106 (GCM)

CLAIM VERIFICATION FORM FOR INVESTORS IN BARKI, LLC

Please complete the following statements, make any changes necessary to ensure accuracy, sign and return this Claim Verification Form and supporting documentation as instructed on the last page of this Form. If you are not able to answer a question or provide copies of requested documents, please provide a written explanation, either in the space provided or on an attached sheet. You may also attach to this form any other written information that you believe is relevant to your claim.

**CLAIM VERIFICATION FORMS ARE DUE ON OR BEFORE
_____, 2009. CLAIMS RECEIVED AFTER THAT DATE MAY
NOT BE ALLOWED A DISTRIBUTION.**

1. This Claim Verification Form is submitted by or on behalf of the following individual(s) or entity _____ relative to funds invested with Barki, LLC ("Barki") for commodity trading.

2. My interest in Barki is recorded under the following account number: _____.

3. I originally learned about Barki from _____ and was solicited to invest in Barki by _____.

4. I received information regarding this account with Barki from: _____.

5. Please indicate which statement(s) are accurate and provide the information requested:

_____ a. No other person has any interest of any kind in this Barki account.

_____ b. The following persons have an interest in this Barki account (list names and addresses):

_____ c. I act as the trustee or representative of one or more other persons who hold a beneficial interest in this Barki account (list names and addresses of all persons holding such beneficial interests):

d. I am a representative or agent of the following entity that invested in funds in Barki (list name and address and your relationship to the entity):

6. On the dates listed below, the following amounts were transferred to fund my investment in Barki (attach additional pages as necessary).

Individual or Entity That Made Transfer	Date of Transfer	Amount of Transfer	Bank Name and Account Number from which Funds were Transferred	Form of Transaction (Check / Wire Transfer)

7. On the dates listed, the following distributions of funds were made on account of my investment in Barki (attach additional pages as necessary).

Individual or Entity That Received Withdrawal	Date of Withdrawal	Amount Withdrawn	Bank Name and Account Number to which Funds were Transferred	Form of Transaction (Check / Wire Transfer)

8. I have enclosed with this Claim Verification Form copies of all available statements received regarding my transfers to and withdrawals from Barki.

9. I have enclosed with this Claim Verification Form copies of all checks, wire transfer advices and all other records of transfers relating to the funds deposited with or withdrawn from Barki.

10. I have enclosed copies of all other documents in my possession or control in connection with my investment in Barki, including correspondence, emails, K-1 or other tax forms, and the like.

11. In addition to the account listed above, I also own an interest in the following Barki account: _____ (Account Name), _____ (Account Number). I have enclosed documentation of transfers between my Barki accounts.

12. This Claim Verification Form (circle one, if applicable) amends / replaces a Claim Form submitted on _____.

I aver and affirm that the above information is true and correct under penalty of perjury.

State of _____	Signature _____
County of _____	Date _____
Subscribed to before me this the ____ day of _____, 2009.	Name: _____ (Please print or type)
_____	Address: _____ _____ _____
Notary Public	Daytime Phone: _____ Email Address: _____

CLAIM FORMS MAY BE SUBMITTED BY EMAIL, FAX OR MAIL AS FOLLOWS:

Email: barkireceivership@grierlaw.com
Fax to: 704.332.0215
Mail to: Barki Claims
Grier Furr & Crisp, PA
101 North Tryon Street, Suite 1240
Charlotte, NC 28246