

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Case No. 17-cv-774-J-32MCR

Commodity Futures Trading Commission,

Plaintiff,

v.

Jason B. Scharf (d/b/a Citrades.com and
AutoTradingBinary.com); CIT Investments
LLC; Brevspand EOOD; CIT Investments
Ltd; A&J Media Partners, Inc.; Michael
Shah; and Zilmil, Inc.,

Defendants.

**LEGAL NOTICE OF
CLAIMS ADMINISTRATION PROCESS
AND PLAN OF DISTRIBUTION**

**IF YOU TRANSFERRED FUNDS TO ANY OF THE BINARY
OPTIONS TRADING PLATFORMS, FIRMS AND/OR WEBSITES
MARKETED BY ZILMIL, INC. (THE “BINARY OPTIONS
PLATFORMS”)¹**

OR

**IF YOU ARE A CREDITOR OF ZILMIL, INC. OR DR. MICHAEL
SHAH,**

**YOU MAY BE ENTITLED TO RECEIVE A PAYMENT FROM
FUNDS RECOVERED IN THIS CFTC ENFORCEMENT ACTION.**

**DEADLINE FOR ALL CUSTOMERS AND CREDITORS TO
SUBMIT CLAIMS TO THE RECEIVER: SEPTEMBER 25, 2020.**

¹ A list of the known Binary Options Platforms is attached hereto as **Exhibit “1”**, which may be updated as additional information is discovered. The most current version will be available for claimants to review as part of the online Proof of Claim and Release Form.

INTRODUCTION

On April 25, 2019, the Court entered a *Consent Order for Permanent Injunction, Civil Monetary Penalty, and Other Equitable Relief Against Defendants Michael Shah and Zilmil, Inc.* (the “Permanent Injunction”) [ECF No. 223], which determined that Defendants Michael Shah and Zilmil, Inc. (collectively, the “Zilmil Defendants”), committed fraud and violated various federal statutes in connection with the marketing of binary options trading platforms, websites and/or firms (the “Binary Options Platforms”) through internet marketing affiliates and mass email campaigns (the “Zilmil Fraud”) from at least June 2013 through July 10, 2017 (the “Relevant Period”). In the Permanent Injunction, the Court also directed its appointed Permanent Receiver, Kenneth Dante Murena, Esq. (the “Receiver”) to, among other things, propose to the Court a claims administration process and plan of distribution for purposes of administering the claims of, and making distributions to, the customers and creditors of the Zilmil Defendants.

On August 1, 2019, the Receiver filed with the Court a Motion to Approve (A) Noticing and Claims Administration Process and (B) Plan of Distribution [ECF # 229]. On December 20, 2019, the Court entered an Order [ECF # 253] approving the Noticing and Claims Administration Process and Distribution Plan (described herein), pursuant to which the “Eligible Claimants” (defined below) shall file the Proof of Claim and Release form attached hereto for (i) the amounts of their net losses incurred as result of transferring funds to any of the Binary Options Platforms (if they are customers), or (ii) the amount that the Zilmil Defendants owe them for goods delivered and/or services performed (if they are creditors). Further, the Court-approved Distribution Plan authorizes and directs the Receiver to create a “Zilmil Distribution Fund” (defined below), and distribute the proceeds of such Fund, after payment of administrative expenses of the receivership estate, to each customer and creditor of the Zilmil Defendants determined to have an “Allowed Claim” (defined below).

LEGAL NOTICE

If you transferred funds to any of the Binary Options Platforms listed on the non-exhaustive list at Exhibit “1” or to another Binary Options Platform to which you were directed or referred by the Zilmil Defendants or an ad they created, or you are a creditor of either of the Zilmil Defendants, you may be an Eligible Claimant entitled to file a Proof of Claim, and you may have an Allowed Claim and, thus, be entitled to receive a *pro rata* distribution from the Zilmil Distribution Fund based on your net losses as a result of the transfers you made to the Binary Options Platforms or the amount that the Zilmil Defendants owe to you. If you are an Eligible Claimant, to obtain any distribution from the Zilmil Distribution Fund, you must fill out and submit to the Receiver the online Proof of Claim and Release form described below **ON OR BEFORE SEPTEMBER 25, 2020**.

How was the Zilmil Distribution Fund created?

The Zilmil Distribution Fund is comprised of the funds the Zilmil Defendants, the proceeds of the sale of assets of the Zilmil Defendants, the restitution paid by the Zilmil Defendants pursuant to the Permanent Injunction entered against them, and other funds recovered from third parties based on their relationship, transaction and other dealings with the Zilmil Defendants. These funds are the results of the Receiver's sustained efforts to marshal, safeguard, liquidate and recover assets, pursuant to his duties as the Court-appointed Receiver in this CFTC enforcement action.

The Receiver has deposited all recovered funds into a Court-approved receivership account. After paying Court-approved administrative expenses, the proceeds of the Zilmil Distribution Fund will be distributed, on a *pro rata* basis, to customers and creditors with Allowed Claims in accordance with the Court-approved Claims Process and Distribution Plan, based on the net amount of each allowed claimants' net losses, or the Zilmil Defendants' current debt to them, and the total amount to be distributed to all allowed claimants.

The Receiver will conduct one Claims Process for all Eligible Claimants of the Estate and make an initial distribution and a final distribution to customers and creditors with allowed claims based on the determinations made in that process. Within thirty (30) days following the conclusion of the Claims Process, the Receiver shall seek to make an initial distribution of seventy-five (75%) of the total amount of cash on hand in the Zilmil Distribution Fund at that time (or a lesser amount if the total amount of allowed claims is less than 75% of the Fund). After the asset recovery and liquidation phases of the Receivership have been concluded, the Receiver will make a final distribution of the remaining cash on hand in the Estate after payment of all administrative expenses that are incurred through the conclusion of the Receivership.

Who is an Eligible Claimant?

Customers are eligible to participate in the Claims Process, and are encouraged to submit a claim, if they incurred a net loss during the Relevant Period as a result of transferring funds to one or more of the Binary Options Platforms. Creditors are eligible to participate in the Claims Process, and are encouraged to submit a claim, if one or more of the Zilmil Defendants incurred a debt to them during the Relevant Period and that debt remains unpaid in whole or in part. Such customers and creditors are "Eligible Claimants" in this Claims Process.

What is required to have an Allowed Claim?

The claim of a customer or creditor will be allowed (an "Allowed Claim"), such that the customer or creditor will be entitled to receive a *pro rata* distribution from the initial distribution based on that customer's net loss as a result of transferring funds to one or more of the Binary Options Platforms, or the amount the Zilmil Defendants still owe to that creditor, provided that the customer or creditor sufficiently demonstrates to the

satisfaction of the Receiver through documentation and/or sworn statements, among other things:

- (i) that such customer (a) transferred funds directly to any Binary Options Platform that transferred some or all of those funds to any Zilmil Defendant, and (b) did not receive from any Binary Options Platform any amount, or received an amount less than the amount they had transferred to a Binary Options Platform, and thus incurred a net loss during the Relevant Period;

OR

that a Zilmil Defendant incurred a debt to such creditor, for goods or services that such creditor provided to such Zilmil Defendant during the Relevant Period and such debt remains unpaid in whole or in part;

AND

- (ii) that such customer or creditor (a) was not an affiliate, family member or insider of any Defendant, any affiliate of any Defendant, any Binary Options Platform, or the Zilmil Fraud, and (b) did not knowingly assist any Defendant, affiliate of any Defendant, or Binary Options Platform to effectuate, perpetuate or promote the Zilmil Fraud or have knowledge of its fraudulent nature, at the time funds were transferred to any Defendant or a Binary Options Platform, or a debt was incurred by one or both of the Zilmil Defendants;

AND

- (iii) that the total amount of funds that such customer transferred to any Binary Options Platform exceeds the total amount of funds that any Binary Options Platform transferred back to such customer, or that the total value of the goods or services that the creditor provided to the Zilmil Defendants exceeds the total amount that the Zilmil Defendants paid to such creditor for those goods and services.

The Receiver may consider other factors in determining whether a claim is an Allowed Claim. If a customer or creditor cannot prove the foregoing factors (i), (ii) and (iii), that customer's or creditor's claim will be disallowed and such customer or creditor will receive no distribution.

To the extent a customer received transfers from any Binary Options Platform in excess of such customer's total transfers to such Platform, or a creditor received transfers from the Zilmil Defendants in excess of the value of the goods or services they provided

to the Zilmil Defendants, such that the customer or creditor profited from the Zilmil Fraud, the Receiver reserves the right to pursue a claim against such customer or creditor for the return of the profit received and any other appropriate relief.

If a *customer* makes the requisite showing regarding his or her claim and the Receiver determines that such claim is an Allowed Claim, the Receiver will calculate the amount of such Allowed Claim by subtracting the total amount of all transfers that such customer received from any Binary Options Platform from the total amount of transfers that such customer made to such Platform. If a *creditor* makes the requisite showing regarding his or her claim and the Receiver determines that such claim is an Allowed Claim, the Receiver will calculate the amount of such Allowed Claim by subtracting the total amount that the Zilmil Defendants paid to the creditor from the total value of the goods or services that such creditor provided to the Zilmil Defendants. **Customers and creditors with Allowed Claims will only be entitled to receive a *pro rata* distribution based on the *net loss* of the customer or the principal amount that is still owed to the creditor;** the Receiver will not include within her calculation for distributions any profit that was reported or promised to a customer or any interest or fee that was promised to a creditor.

A customer or creditor that files a claim submits itself to the exclusive jurisdiction of the U.S. District Court for the Middle District of Florida, waives any right to trial by jury with respect to such claim or any related matter if such right exists, and agrees that the U.S. District Court for the Middle District of Florida is the proper venue for the adjudication of such claim and all matters related to any transfers made between the customer/creditor and the Zilmil Defendants.

How does an Eligible Claimant submit a Claim?

To submit a claim and participate in the Claims Process and Distribution Plan, you must fill out and submit an online Proof of Claim form and agree to and sign an online release form. You will find the electronic Proof of Claim and Release form by visiting the online Claims Portal created for this receivership located at this URL: <http://www.ZilmilClaimsProcess.com/>. On the home page of the Claims Portal, you will see a link for the online Proof of Claim and Release form. That Proof of Claim and Release form will request information required to participate in the Claims Process and to receive a distribution from the Zilmil Distribution Fund if you are determined to have an Allowed Claim. And, you will also be able to upload all supporting documentation through that Portal. For technical support in completing the online Proof of Claim and Release form, please contact the Receiver's Noticing and Claims Agent at TeamZilmil@stretto.com.

For information regarding the Receivership and the CFTC Enforcement Action visit the website for this Receivership at www.binaryoptionsreceivership.com.