

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

Plaintiff,

vs.

Case No.: 14-001695-CI

TRI-MED CORPORATION,
TRI-MED ASSOCIATES INC.,
JEREMY ANDERSON,
ANTHONY N. NICHOLAS, III,
ERIC AGER, IRWIN AGER,
TERESA SIMMONS BORDINAT
a/k/a TERESA SIMMONS,
and ANTHONY N. NICHOLAS, JR.,

Defendants.

vs.

TMFL HOLDINGS, LLC

Relief Defendant.

_____ /

**RECEIVER'S MOTION TO (1) APPROVE
DETERMINATIONS AND PRIORITY OF CLAIMS, (2) POOL
RECEIVERSHIP ASSETS AND LIABILITIES, (3) APPROVE PLAN
OF DISTRIBUTION AND A FIRST INTERIM DISTRIBUTION
AND (4) ESTABLISH OBJECTION PROCEDURE**

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Burton W. Wiand, as Receiver (the “**Receiver**”), respectfully moves this Court for an Order:

- approving his determinations and priority of claims as set forth in this Motion and in attached **Exhibits B** through **F**;
- pooling all assets and liabilities of the entities that have been placed in receivership in this case as of the date of this Motion;
- approving a plan of distribution and a first interim distribution of 26% percent of the Allowed Amounts¹ of Class 1 Claims² as set forth in this Motion and in **Exhibits B** and **C**;
- establishing a procedure for objections to the Receiver’s determination of claims, claim priority, and plan of distribution; and
- barring and enjoining any further claims against or other efforts to enforce or otherwise collect on any lien, debt, or other asserted interest in or against Receivership entities, Receivership property, the Receivership estate, or the Receiver.

It is worth emphasizing one prong of the relief sought by this Motion: the Receiver seeks to establish an objection procedure. That procedure provides Claimants the opportunity to object to their respective claim determinations, claim priority, and the plan of distribution in an orderly and fair process while still allowing the Receiver to distribute money to Claimants who have no objection. If the Receiver and Claimants are unable to resolve any objections, then the Receiver will submit any such objections to the Court for adjudication in an efficient manner, thus avoiding inefficient piecemeal adjudication of

¹ “**Allowed Amount**” is the amount of a claim to which the Receiver has determined the person or entity submitting that claim (the “**Claimant**”) is entitled. Allowed Amounts are used to determine each Claimant’s share of distributions of Receivership assets.

² As discussed in more detail in Section I.E below, Class 1 is comprised of claims submitted by investors which are allowed or allowed in part.

objections and conserving both the Court's and the Receivership's time and resources. The Court's approval of matters requested in this Motion is necessary to begin this process, and it will allow distributions to be made to defrauded investors in the most expeditious manner while not prejudicing Claimants with objections. Any objection to claim determinations, claim priority, or the plan of distribution directly filed in Court in response to this Motion should be denied without prejudice to its submission to the Receiver in accordance with the pertinent parameters set forth in Section IV of this Motion.

BACKGROUND

1. By a Complaint filed on March 4, 2014, and a subsequent amended complaint, the State of Florida, Office of Financial Regulation ("**OFR**"), brought this action seeking emergency relief to stop a fraudulent investment scheme involving hundreds of primarily elderly victims against Jeremy Anderson; Anthony N. Nicholas, Jr.; Anthony N. Nicholas, III; Eric Ager; Irwin Ager; Teresa Simmons Bordinat; Tri-Med Corporation ("**Tri-Med**"); and Tri-Med Associates Inc. ("**TMA**") (collectively, "**Defendants**"). On the OFR's motion, the Court entered an order appointing Mr. Wiand as Receiver for Tri-Med and TMA (the "**Order Appointing Receiver**"). On May 13, 2014, the Court granted the Receiver's motion to expand this Receivership to include Relief Defendant TMFL Holdings, LLC. Tri-Med, TMA, and TMFL Holdings are collectively referred to as the "**Receivership Entities.**"

2. The Receiver's investigation revealed the Defendants violated Florida securities laws from at least 2011 forward by raising over \$17 million through the offer and sale of unregistered securities with misrepresentations that, among other things, those funds

would be (a) used to purchase medical accounts receivable purportedly backed by Letters of Protection (“LOPs”)³ and (b) safeguarded by being kept in an attorney trust account. These representations were false, as were many others. At best, only approximately 25% of investor funds were used to buy LOPs, and of the more than \$17 million raised from investors, the defendants and their related entities directly received or benefitted from approximately 38% of investor funds.

3. The Defendants falsely guaranteed to investors annual rates of return ranging from approximately 5% to 8% with purported interest payments paid monthly for up to two years. They also falsely represented that they would assign accounts receivable to investors;⁴ that if the receivable was not paid by the end of the two-year term, Tri-Med would still pay back to the investor the full principal amount or the investor could roll the investment amount over and continue receiving “interest payments” for another term; and that Tri-Med had a Bank of America letter of credit to satisfy these commitments.

4. To perpetrate this scheme, the Defendants caused the Receivership Entities to pay investors “monthly income payments” or “interest payments.” The funds used to

³ LOPs are contracts involving a patient, the patient’s attorney, and the medical services provider under which the patient and attorney agree to pay all or part of the total billed by the medical services provider from the proceeds of any pre-suit settlement or lawsuit settlement or judgment the patient may obtain.

⁴ Although there are some informal records indicating an allocation of portions of receivables to certain investors in some instances, there were no actual assignments and no recorded security interests and many investors were not allocated receivables even informally.

make these payments were not generated from legitimate business activity; rather, they were generated from new or existing investors.

5. After a day-long evidentiary hearing on October 22, 2014, this Court found “the evidence is clear and convincing and reaches a very high level that this was a fraudulent scheme to steal people’s money.” The Court added, “[t]he whole series of introduction of evidence and testimony in this case is highly suggestive of numerous criminal offenses that ... [the Defendants] might be fearful of from tax evasion to securities violations to fraud and theft, et cetera et cetera.”

6. Thus, while the Defendants touted an investment with Tri-Med as safe as a certificate of deposit, in reality it was a fraudulent scheme in which money raised from new investors and additional money raised from existing investors was, among other things, used to (a) make purported “interest” payments to investors; (b) re-pay investors their purported “principal”; (c) unlawfully pay substantial “commissions” to “sales agents” for successfully soliciting investors; and (d) pay approximately an astounding 29% of those funds to the Defendants themselves as purported “management expenses,” “office expenses,” and “overhead.”

7. Pursuant to the Order Appointing Receiver, the Receiver has certain duties and powers, such as to:

VIII. Take immediate possession of [all of the assets and properties of the Defendants and Relief Defendant wherever located] ... and to hold and manage them until further order of this Court; and that he shall marshal and safeguard all such properties and assets ...

h. [D]irect and oversee the liquidation of the assets and properties of the Receivership Entities as deemed appropriate

by him in such a manner as to maximize in a timely manner the proceeds for such assets and properties and the conservation of the assets and properties of the Receivership Entities for the benefit of their customers/investors and creditors.

8. In accordance with the Order Appointing Receiver, the Receiver, among other things, took possession of the Receivership Entities' assets with the goal of marshaling, liquidating, and then distributing them to investors, and potentially other creditors, with allowed claims in a fair and equitable manner.

PROCEDURAL BACKGROUND

9. On February 9, 2015, the Receiver filed a Motion to (1) Approve Proof of Claim Form and Procedure to Administer Claims, (2) Establish Deadline for Filing Proofs of Claim, and (3) Permit Notice by Mail and Publication (the "**Claims Motion**"). On March 27, 2015, the Court granted that Motion in its entirety and established a Claim Bar Date of the later of either 90 days from the date of that Order or 90 days from the mailing of the Proof of Claim Form to known potential creditors (as the term "**Claim Bar Date**" is defined in the Claims Motion).

10. Pursuant to the Court's Order, any person or entity who failed to submit a proof of claim to the Receiver so that it was received by the Receiver on or before the Claim Bar Date is forever barred and precluded from asserting any claim against the Receivership or any Receivership Entity.

11. That Order further provided that sufficient and reasonable notice was given by the Receiver if made (1) by mail to the last known addresses of all known potential creditors; (2) by publication on one day in The Tampa Bay Times, The Tampa Tribune,

The Miami Herald, The Sun Sentinel, The Orlando Sentinel, The Ocala Star Banner, The Florida Times Union, and The Daytona Beach News-Journal; and (3) by publication on the Receiver's website (www.trimedreceivership.com).

12. In compliance with that Order, on April 1, 2015, the Receiver mailed 377 claims packages to known investors and their attorneys, if any, and any other known potential creditors of the Receivership estate thereby establishing **June 30, 2015, as the Claim Bar Date**. Each package included a cover letter, Claims Process Instructions, and a Proof of Claim Form.

13. The Receiver also published notice of the claims process in the form approved by the Court in each of the eight newspapers on the following days: The Tampa Bay Times, April 15, 2015; The Tampa Tribune, April 16, 2015; The Miami Herald, April 13, 2015; The Sun Sentinel, April 15, 2015; The Orlando Sentinel, April 13, 2015; The Ocala Star Banner, April 14, 2015; The Florida Times Union, April 16, 2015; and The Daytona Beach News-Journal, April 14, 2015. He also published and provided all pertinent documents for the claims process on his website.

14. As of the date of this Motion, the Receiver has received 289 claims from investors (the “**Investor Claimants**” or “**Investor Claims**”), which include 100% of all currently known investors who experienced a loss on their investment with Tri-Med. The Receiver also received 11 claims from other purported creditors (the “**Non-Investor Claimants**” or “**Non-Investor Claims**”), for a total of 300 submitted claims (the

“**Claims**”).⁵ The Receiver has received Investor Claims totaling approximately \$15,559,760.29 and Non-Investor Claims totaling approximately \$650,828.06, for a total claim amount of approximately \$16,210,588.35.⁶ The Receiver has reviewed all submitted claims and finalized his determinations of those claims.

15. To make the process less burdensome for investors, the Court approved the Receiver’s proposal to include in Proof of Claim Forms distributed to investors his calculation for the applicable investor’s “**Net Investment Amount**” where sufficient information existed. The Net Investment Amount for an investor is calculated by adding all amounts invested by that investor and subtracting all payments made to that investor and/or in connection with that investment, regardless of whether those payments were characterized as interest, as returns of principal, or using any other terminology. In other

⁵ Six claims were submitted by certain Defendants and one of the Defendants’ daughter. On the Claim Bar Date, counsel for those Defendants filed an “Emergency Notice of Non-Receipt of Claim Form” alleging that Defendants Anderson, Nicholas, Jr., and Nicholas, III, did not receive claim forms. The Receiver filed a response that same day explaining those Defendants had ample notice of the Claim Bar Date and access to the Proof of Claim Form through their receipt of the Claims Motion, through the Receiver’s website, and by the Receiver providing Proof of Claim Forms to one of their lawyers. Nonetheless, because those Defendants claimed not to have received Proof of Claim Forms, the Receiver informed them that he would not reject their claims as untimely if he received them by close of business Monday, July 6, 2015. The Receiver clearly stated, however, that this was not an indication that he would not reject their claims on other grounds. The six claims were received on July 6, 2015.

⁶ These amounts do not include claims for unspecified amounts of interest, fees, or penalties which were sought by some Claimants. Further, these numbers reflect the amounts to which Claimants claim they are entitled, and not how much the Receiver has determined is the appropriate amount of their claims under law and equity.

words, the Net Investment Amount reflects dollars an investor actually deposited in the scheme minus dollars that investor actually received from the scheme.

16. If an investor agreed with the numbers provided by the Receiver, the investor did not have to provide any documentation supporting the claim. The investor, however, was required to sign under penalty of perjury and return the completed Proof of Claim Form by the Claim Bar Date.⁷

17. The Receiver identified deficiencies in certain Proof of Claim Forms and communicated with those Claimants to resolve the majority of those deficiencies. As noted below and in **Exhibit B**, there is one claim which has outstanding deficiencies (*see* Claim No. 138). The Receiver proposes this Claimant be given twenty (20) days from the date of the Order on this Motion to cure these deficiencies.

18. After the filing of this Motion, the Receiver will promptly mail a letter giving notice of this Motion to all Claimants to the mailing address provided on each of their respective submitted Proof of Claim Forms, and to their attorneys, if any were identified. The letter will explain that this Motion is available on the Receiver's website or, upon request, from the Receiver's office, and it also will advise each Claimant of his, her, or its respective claim number.⁸

⁷ For the Court's ease of reference, a copy of a blank Proof of Claim Form is attached as **Exhibit A**.

⁸ To minimize public disclosure of Claimants' personal information and the risk that they are targeted by additional scams, the Receiver has assigned each claim a number. By a separately filed motion, the Receiver has requested that he be allowed to file under seal a list disclosing the identity of each Claimant associated with each claim number listed in **Exhibits B** through **F** instead of identifying the Claimants by name in a public filing.
(footnote cont'd)

**THE RECEIVER’S DETERMINATIONS AND FURTHER
PLANS FOR ADMINISTERING THE CLAIMS PROCESS**

19. The Court’s power over an equity receivership and to determine appropriate procedures for administering a receivership is “extremely broad.” *S.E.C. v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986); see *Fugazy Travel Bureau, Inc. v. State by Dickinson*, 188 So. 2d 842, 844 (Fla. 4th DCA 1966) (“The right of a receiver to settle claims and compromise actions with the approval and sanction of the court is well recognized”); *S.E.C. v. Basic Energy & Affiliated Res. Inc.*, 273 F.3d 657, 668 (6th Cir. 2001); *S.E.C. v. Elliot*, 953 F.2d 1556, 1566 (11th Cir. 1992). The primary purpose of an equity receivership is to promote the orderly and efficient administration of the estate for the benefit of creditors. *Hardy*, 803 F.2d at 1038. The relief requested by the Receiver in this Motion best serves this purpose.

I. THE RECEIVER’S DETERMINATION OF CLAIMS AND CLAIM PRIORITY

20. As discussed in the Claims Motion, any properly completed and timely filed proof of claim should be allowed if it is established that: (1) the claim arises out of any Receivership Entity’s activities; (2) losses recognized by law resulted from such activities; (3) any alleged claim and losses are consistent with the books and records available to the Receiver; and (4) no other ground exists for denying the claim. The Receiver has carefully reviewed all 300 submitted claims and determined that each claim falls within one of four categories:

However, in instances where the Claimant’s identity is important to the determination of a claim, this Motion discloses that information.

- a) Investor Claims which should be allowed and should receive the highest priority among claims;
- b) Investor Claims which should be allowed in part and also should receive the highest priority among claims;
- c) Non-Investor Claims which should be allowed (in whole or in part), but should be paid only after defrauded investors' allowed claims have been paid in full; and
- d) claims which should be denied.

21. As detailed in **Exhibits B** through **F**, the Receiver has proposed an Allowed Amount for each claim which will be used to determine the Claimant's share of distributions of Receivership assets. The Receiver's determination of a Claimant's Allowed Amount is not indicative of the amount the Claimant actually will receive through distributions of Receivership assets. Rather, each Claimant holding an allowed claim with an Allowed Amount greater than zero will be eligible for distributions on a *pro rata* basis depending on the priority of the claim (unless otherwise discussed in this Motion), and ultimately likely will only receive a percentage of the Claimant's Allowed Amount. For example, claims submitted by Non-Investor Claimants may receive no distributions despite having a positive Allowed Amount because, as discussed below in Section I.E, those claims have a lower priority than defrauded investors' claims.

22. As of August 31, 2015, the Receiver had approximately **\$6,430,769.41** in all Receivership accounts. The Receiver believes he has sufficient funds to warrant the expense inherent in making an interim distribution. As discussed in more detail below, the Receiver recommends making an interim distribution as soon as possible after the deadline for Claimants' objections (as discussed below in Section IV) has expired.

23. The Receiver considered each submitted claim to determine its claim category, with the goal that distribution of the Receivership's assets be equitable and fair among all Claimants. Various types of Claimants submitted claims, including individual investors, attorneys who provided services to Receivership Entities before appointment of the Receiver, sales agents, and Defendants. The majority of Claimants had no reason to know of the scheme underlying this case. Others, were involved in the scheme or, at a minimum, should have recognized at least some of the numerous "red flags." It is through the Receiver's review of information each Claimant provided, the Receivership Entities' books and records, and information obtained from non-parties that the Receiver established the categories of Claimants discussed in this Motion to ensure fair and equitable treatment.

24. The Receiver asks the Court to approve his recommended claim determinations as set forth in **Exhibits B** through **F** and, in certain instances, discussed in more detail below. Further, as the Claim Bar Date has passed and all known Investor Claimants who experienced losses have submitted claims, and all other potential creditors have had appropriate notice of the claims process and an opportunity to file claims and to seek enforcement of any liens or other purported rights or interests in Receivership property, the Receiver asks the Court to issue an order (1) confirming that no further claims will be considered and (2) barring and enjoining any future claims against Receivership Entities, Receivership property, the Receivership estate, or the Receiver, and any proceedings or other efforts to enforce or otherwise collect on any lien, debt, or other asserted interest in or against Receivership Entities, Receivership property, or the Receivership estate. Such an order is critical to bring finality and to allow distributions to

proceed, and is warranted in light of the ample time that has been available to address such matters.

A. Allowed Investor Claims Which Should Receive Highest Priority

25. Highest priority should be given to claims submitted by investors who were victimized by the scheme and who did not have reason to recognize “red flags.” Specifically, these investors invested a principal amount in the scheme which exceeded any payments they received from the scheme. The Receiver has determined that 246 Investor Claims should be allowed in full. These claims are identified in **Exhibit B** and are consistent with the Receivership Entities’ books and records and other documents recovered by the Receiver (collectively, the “**Receivership Records**”). Accordingly, the Court should allow each of these claims in the Allowed Amounts as set forth in **Exhibit B**.

B. Allowed In Part Investor Claims, Which Also Should Receive Highest Priority

26. The Receiver received 35 Investor Claims which, because of various factors, should not be allowed in full. These claims are set forth in **Exhibit C**. Sections I.B.1 and I.B.2 below discuss matters impacting the Allowed Amount of these claims.

1. Investor Claims Should Be Allowed Only For The Net Investment Amount

27. As a general matter, an Investor Claimant is not entitled to an Allowed Amount that exceeds the claimant’s Net Investment Amount. Accordingly, the Court should approve the Net Investment Method as the proper method for determining Allowed Amounts for Investor Claims. As previously noted, the Net Investment Amount for an investor is calculated by adding all amounts invested by the pertinent investor and

subtracting all payments made to that investor or in connection with that investment, regardless of whether those payments were characterized as interest, returns of principal, or by using any other terminology. The Court previously approved the Receiver's proposal to include this amount on the Proof of Claim Forms sent to investors where sufficient information was available.

28. Using the Net Investment Method, the Allowed Amount only takes into account the actual dollars the Claimant "invested" less any amounts the Claimant already received. This method of calculating a Claimant's loss is regularly adopted by receivership courts, which consistently hold that a defrauded investor's claim should be limited to the total dollar amount of its investment reduced by any funds it received. *See In re Old Naples Sec., Inc.*, 311 B.R. 607, 616 (Bankr. M.D. Fla. 2002); *Warfield v. Carnie*, 2007 WL 1112591, *12-13 (N.D. Tex. 2007); *S.E.C. v. Homeland Commc'ns Corp.*, 2010 WL 2035326, *3 (S.D. Fla. 2010); *S.E.C. v. Credit Bancorp, Ltd.*, 2000 WL 1752979, *40 (S.D.N.Y. 2000); *In re Bernard L. Madoff Inv. Sec. LLC*, 654 F.3d 229, 233-35 (2d Cir. 2011). These cases establish the Net Investment Amount represents the most equitable and practical approach for determining investor claim amounts and a common approach for handling investor claims in a receivership involving a fraudulent investment scheme. *See Madoff*, 654 F.3d at 233-35.

29. The Net Investment Amount appropriately does not give Claimants credit for scheme misrepresentations, such as that investors had earned interest ("**False Interest**"). Specifically, it was falsely represented to investors that they would receive "interest payments" or "monthly income payments" in amounts as high as 8% annually

(any payments, other than principal redemptions, made or promised to investors are collectively referred to as “**False Interest Payments**”). These False Interest Payments were fictitious because the Receivership Entities were operated as a Ponzi scheme, and the False Interest Payments promised or paid were or would have been paid with investors’ commingled principal investment funds.

30. A Ponzi scheme is an illegal endeavor and thus creates no legal entitlement to profits or interest for its investors. *See Warfield*, 2007 WL 1112591 at *12-13; *In re Pearlman*, 484 B.R. 241, 244 (Bankr. M.D. Fla. 2012) (applying “Net Investment Method to the investors’ claims, which will reduce the proofs of claim of those investors who received interest or dividend payments, because those payments were, by their very nature, illegal and fictitious”); *Janvey v. Brown*, 767 F.3d 430, 442 (5th Cir. 2014) (investors have no claim for contractual interest from Ponzi scheme); *see also Donell v. Kowell*, 533 F.3d 762, 774-775 (9th Cir. 2008) (Ponzi investors “were not actually investors, but rather tort creditors with a fraud claim for restitution equal to the amount [lost]”); *Scholes v. Lehmann*, 56 F.3d 750, 755 (7th Cir. 1995) (defrauded Ponzi scheme investors have a claim because they are tort creditors).

31. A Ponzi scheme generates no legitimate investment interest, and “recognizing profits or other earnings in claims for distribution would be to the detriment of later investors and would therefore be inequitable.” *Commodity Futures Trading Com’n v. Equity Fin’l Group, LLC*, 2005 WL 2143975, *23 (D.N.J. 2005). Because early investors would have the benefit of many more months of receiving False Interest Payments than later investors who invested the same amount of actual dollars, the later

investors would ultimately recover less because they had less time to recover part of their principal through such fictitious False Interest Payments. Early investors should not benefit at the expense of later ones. *See Cunningham v. Brown*, 265 U.S. 1, 13 (1924); *Abrams v. Eby*, 294 F. 1, 4 (4th Cir. 1923); *Madoff*, 654 F.3d at 235 (if Net Investment Method is not adopted “those claimants who have withdrawn funds from their ... accounts that exceed their initial investments ‘would receive more favorable treatment by profiting from the principal investments of those claimants who have withdrawn less money than they deposited, yielding an inequitable result’”) (citations omitted). As such, promised future False Interest Payments should not factor into the determination of an Allowed Amount because they do not reflect actual interest, while any False Interest Payments received by a Claimant must be factored into the Claimant’s Allowed Amount.

32. Inconsistent with the Net Investment Method, seven Investor Claims seek False Interest Payments in addition to their Net Investment Amounts. (*See* Claim Nos. 250, 251, 257, 258, 261, 266, and 267.)⁹ The Receiver’s determination of the Allowed Amounts for each of those seven Investor Claims reflects each of their associated Net Investment Amounts.

33. Also inconsistent with the Net Investment Method, the Receiver received one claim from an Investor Claimant who invested in the scheme twice, and one investment resulted in a loss (*see* Claim No. 263, **Exhibit C**) while the other investment received

⁹ Four of these claims ignore the money they actually received from the scheme as “interest” and seek their full investment amount plus additional interest, and two of these seven claims also seek “lost opportunity costs.”

payments greater than the amount invested, which resulted in false profits (*i.e.*, receipt by the investor of more money from the scheme than the investor invested) (*see* Claim No. 285, **Exhibit D**). In determining the Allowed Amount for Claim Number 263, the Receiver set-off the claimed losses with the false profit received in connection with Claim Number 285. *See Equity Fin'l Grp.*, 2005 WL 2143975 at *12, 26 (upholding Receiver's determination to consolidate accounts); *S.E.C. v. Illarramendi*, 2013 WL 6385036, *1 (D. Conn. 2013) ("Receiver will calculate a claimant's net investment on a consolidated basis, so that if a claimant has multiple accounts, any fictitious profits withdrawn from one account will be subtracted from the claimant's allowed amount in another account.").

34. Netting the results of multiple investments with Tri-Med made by a Claimant is necessary under the Net Investment Method and avoids the inequitable possibility of allowing a Claimant to profit at the expense of similarly situated investors. To allow an investor to retain false profits while simultaneously recognizing a claim for losses would be inequitable to investors who did not profit at all.

35. Accordingly, the Court should (1) find the Net Investment Method as proposed above and as reflected in the Exhibits is the appropriate and equitable method for determining Allowed Amounts for Investor Claims and (2) allow all of the foregoing claims for the Allowed Amounts as set forth in **Exhibit C**.

2. Investor Claims For Amounts That Are Inconsistent With The Amounts Reflected In Receivership Records Should Be Allowed Only In The Amount Reflected In Receivership Records

36. Twenty-six Investor Claims have claim amounts that are inconsistent with Receivership Records and should be allowed only in the appropriate amount reflected in

those records. (See Claim Nos. 247, 248, 249, 252, 253, 254, 255, 258,¹⁰ 259, 260, 262, 264, 265, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, and 281.) Receivership Records show the figures and Allowed Amounts set forth in **Exhibit C** for each of those claims accurately reflect their Net Investment Amount.

37. Approving these claims in the amounts set forth in **Exhibit C** will allow the Receiver to proceed with a first interim distribution as detailed in Section III below. As provided in the Receiver's distribution plan, these Claimants will receive a first interim distribution based on the Allowed Amount recommended by the Receiver. However, they will have an opportunity to object as discussed in Section IV below, and if a Claimant timely objects and the objection is sustained, the Claimant will receive a distribution on the additional amount at the same *pro rata* percentage as the initial distribution. As such, the Claimant is not prejudiced by the Court allowing the claims in the Allowed Amounts set forth in **Exhibit C**, and doing so will allow the first interim distribution to occur expeditiously.

3. Investor Claims Which Should Be Allowed In Part for Other Reasons

38. Four claims should be allowed in part subject to a set-off for expenses incurred by the Receiver and his counsel in defending an involuntary bankruptcy petition initiated by these Claimants on behalf of Tri-Med despite vigorous opposition from the Receiver before its filing, which clearly explained the detrimental impact the filing would

¹⁰ This claim seeks amounts that are inconsistent with Receivership Records and also seeks False Interest. As such, it is included in this and the preceding Section.

have on the victims as a whole. (*See* Claim Nos. 256, 257, 260, and 261.)¹¹ The Receiver explained in Court filings, in interim reports available on the Receivership website, and in correspondence to investors that an involuntary bankruptcy was being sought by the perpetrators of this scheme and that it would increase costs, delay distributions, and result in no extra benefit to defrauded investors. Further, in the Proof of Claim Form approved by the Court and submitted by each Claimant to the Receiver, each Claimant acknowledged that they “submit[ted] to the exclusive jurisdiction of this Court for all purposes,” including any claims arising out of any “dealing or business transacted that relates in any way to any Receivership property.”

39. Despite the Receiver’s warnings and these Claimants’ submission to this Court’s exclusive jurisdiction, these Claimants proceeded with filing the involuntary bankruptcy petition on behalf of Tri-Med on July 1, 2015. Although the Receiver ultimately was successful in having the petition dismissed, he had to incur legal fees for representation in bankruptcy, which in turn negatively impacted defrauded investors with Class 1 claims. To offset the negative financial impact on the Receivership estate, the Receiver requests that he be permitted to hold back 50% of the first interim distribution to which these claims are entitled until the set-off request is adjudicated by the Court. If set-off is ordered by the Court, the Receiver will satisfy the set-off from the held-back distribution proceeds. If the set-off amount awarded is greater than the amount held back, the Receiver will satisfy the remaining portion of the set-off from any future distributions

¹¹ Three of these four claims also should be allowed in part for other reasons discussed in the preceding Sections. (*See* Claim Nos. 257, 260, and 261.)

to which the respective Claimant otherwise would be entitled. If no set-off is awarded or the amount of the set-off is less than the amount of the held-back funds, the Receiver will satisfy any applicable set-off amount and distribute the remaining funds to the respective Claimants.

40. One Claimant who agreed with the Net Investment Amount identified by the Receiver disclosed in his Proof of Claim Form that he received an additional \$4,875 in connection with his investment. (*See* Claim No. 268.) Because that additional amount was not taken into account in the Net Investment Amount identified by the Receiver, the Allowed Amount for this claim should be reduced to reflect the additional money that Claimant received as set forth in **Exhibit C**.

C. Allowed And Allowed In Part Non-Investor Claims, Which Should Receive Lowest Priority Among Allowed And Allowed In Part Claims

41. Non-investor creditors submitted three claims for amounts owed in connection with their provision of goods or services to Receivership Entities (“**Non-Investor Claimants**”). The total amount of those three claims is \$14,447.35, and they are itemized in **Exhibit D**. Two of those claims should be allowed for the full amount claimed (*see* Claim Nos. 290 and 292), and the remaining claim should have an Allowed Amount that is less than the amount claimed (*see* Claim No. 291).

42. Claim Number 290 was submitted by the Florida Department of Revenue (“**FDOR**”). Under the procedures set forth in the Claims Motion, the Receiver sent Claims Packages to the Internal Revenue Service (“**IRS**”) and FDOR notifying them of their opportunity to submit a claim. The Receiver received a claim from FDOR which seeks \$242.49 for reemployment taxes; that claim should be allowed. (*See* Claim No. 290.)

43. However, because the Claim Bar Date has passed, the Court should order that the above taxing authorities are barred and precluded from further asserting claims against the Receiver, Receivership estate, or any Receivership Entity. Enforcement of the Claim Bar Date against any future claim is necessary to allow the Receiver to proceed with the distribution plan discussed in Section III below.

44. Claim Number 291 seeks unpaid condominium association assessments and interest charges, late fees, collection costs, and attorney's fees and costs relating to a condominium previously owned by a Receivership Entity. That claim should be allowed only in the Allowed Amount set forth in **Exhibit D**, which is the amount of actual unpaid assessments. As a matter of equity, under the circumstances of this Receivership, this claim should not recover interest charges, late fees, legal fees, or any costs.

45. Claim Number 292 was submitted by a law firm which acted as local counsel for Tri-Med's out-of-state lawyers for a pre-Receivership bankruptcy matter. This Claimant received an advance payment in the amount of \$7,500 and asserts that by virtue of this advance it has a secured claim of \$7,346.57. Rather than being treated as a secured claim with a right to be paid \$7,346.57, this claim should be treated as an unsecured Non-Investor Claim as set forth in Section I.E of this Motion and in **Exhibit D** for two reasons. First, the advance payment did not create a security interest. *See Jackson Walker LLP v. F.D.I.C.*, 13 F. Supp. 3d 953, 961-62 (D. Minn. 2014) (finding that retainer paid to law firm pre-receivership was not security because in reality it served as "advanced payment" instead of security); *see also In re Hintze*, 525 B.R. 780, 784-85 (Bankr. N.D. Fla. 2015) (Florida law requires, among other things, an authenticated security agreement that

describes the collateral to create a security interest); *Gibson v. Resolution Trust Corp.*, 51 F.3d 1016, 1022 (11th Cir. 1995) (under Florida law, parties need to evidence intent to establish security agreement to create a security interest). Second, the money this Claimant received as an advance was defrauded investors' money, and whether or not this Claimant has a secured interest in it for the amount of its unpaid fees, defrauded investors' interest in those funds has priority over this Claimant's purported security interest. As an equitable matter in receivership proceedings, "the class of fraud victims takes priority over the class of general creditors with respect to proceeds traceable to the fraud." *Quilling v. Trade Partners, Inc.*, 2006 WL 3694629, *1 (W.D. Mich. 2006). This is appropriate because "[t]he equitable doctrine of constructive trusts gives 'the party injured by the unlawful diversion a priority of right over the other creditors of the possessor.'" *Id.* (quoting Clark on Receivers § 662.1 at 1174); *see also U.S. Commodity Futures Trading Com'n v. PrivateFX Global One*, 778 F. Supp. 2d 775, 786-87 (S.D. Tex. 2011) (overruling objection of bank that extended line of credit and adopting receiver's argument that "courts regularly grant defrauded investors a higher priority than defrauded creditors"). As such, the full advance amount should be returned to the Receiver so that it can be combined with other assets for distribution to defrauded investors, as they have priority, and as explained in Section I.E below, this Claimant will be entitled to payment only if and after investors have been paid in full.

46. As discussed in Section I.E below, all of the Allowed and Allowed In Part Non-Investor Claims should receive the lowest priority among Allowed and Allowed In

Part claims, such that those claims are paid only after the Allowed Amounts of all Investor Claims have been paid in full.

D. Denied Claims

47. Sixteen of the 300 submitted claims should be denied. These claims are identified in **Exhibits E** and **F** and briefly summarized below.

1. Investor Claim Which Should Be Denied Because No Losses Were Suffered

48. One of those claims should be denied because the underlying investment did not experience any losses (*see* Claim No. 285). That investment received more in payments than the amount invested resulting in a false profit of \$571.00. As discussed in Section I.B.1 above, the Receiver has recommended that this false profit offset the amount of loss this same investor experienced in another investment with Tri-Med (*see* Claim No. 263). Claims by Investor Claimants who have not experienced a loss should be denied. Accordingly, this claim should be denied as set forth in **Exhibit E**.

2. Claims Which Should Be Denied Because The Claimants Perpetrated The Fraud, Were On Inquiry Or Actual Notice Of Fraud, And/Or Conspired, Aided And Abetted, Or Otherwise Participated In The Fraud

49. Fourteen claims should be denied because the Claimants perpetrated the fraud; had either actual or inquiry notice of fraud; and/or conspired, aided and abetted, or otherwise participated in the fraud, and thus it would be inequitable to share Receivership assets with these Claimants. (*See* Claim Nos. 282, 283, 284, 286, 287, 288, 289, 293, 294, 295, 296, 297, 299, and 300.) Under principles of equity, these Claimants should not

receive any Receivership assets. Accordingly, these claims should be denied as set forth in **Exhibits E and F**.

a. Claims From Claimants Who Perpetrated The Fraud Should Be Denied

50. Four claims were submitted by Defendants Anderson; Nicholas, Jr.; and Nicholas, III, seeking, among other things, funds seized from personal bank accounts, the value of their purported Tri-Med stock, and “profits” of Tri-Med. (*See* Claim Nos. 293, 295, 296, and 297.) These claims should be denied because these Claimants perpetrated the fraud.

51. Specifically, these Claimants used the Receivership Entities to lure into the scheme and defraud over 230 investors through numerous material misrepresentations and omissions, including that a purported investment with Tri-Med was as safe as a certificate of deposit and virtually risk-free; that the investment was guaranteed or backed by a major insurance company; that Tri-Med had a letter of credit with Bank of America to protect investors; that investors’ money would be safeguarded in an attorney trust account; that Tri-Med voluntarily moved its business from Bank of America to Wells Fargo Bank when in reality Bank of America froze and closed Tri-Med’s accounts because it believed Tri-Med was operating a fraudulent scheme; that investors were guaranteed purported interest rates of up to 8%; that investors’ money would be used to buy LOPs when in reality only a small portion of it actually was used in that way; that Tri-Med purchased LOPs from hospitals operated by Hospital Corporation of America when in reality it did not; and that purported attorney opinion letters used to assuage potential investors’ concerns were forgeries.

52. As mentioned above, the court held an evidentiary hearing on these Claimants' Emergency Motion to Vacate and Dissolve Receivership and Injunction (the "**Motion to Dissolve**") on October 22, 2014. A true and correct copy of the Transcript of that October 22, 2014 hearing (the "**Hearing Transcript**") is available at <http://trimedreceivership.com/documents/10%2022%202014%20Hearing%20Transcript.pdf>. At that hearing, Claimant Nicholas, III, invoked his Fifth Amendment Constitutional right against self-incrimination and refused to answer any substantive questions. The other two pertinent Claimants did not testify and had previously invoked their Fifth Amendment privilege against self-incrimination and refused to answer any substantive questions during their depositions.

53. At the conclusion of the hearing, the Court found "the evidence is clear and convincing and reaches a very high level that this was a fraudulent scheme to steal people's money." Hearing Transcript at 242:14-18 (emphasis added). The Court added, "[t]he whole series of introduction of evidence and testimony in this case is highly suggestive of numerous criminal offenses that they might be fearful of from tax evasion to securities violations to fraud and theft, et cetera et cetera." *Id.* at 240:16-21 (emphasis added). In light of abundant and uncontroverted evidence that the assets of the Receivership estate were derived from the fraudulent activity of these Claimants, they should not receive any share of those assets.

b. Claims From "Sales Agents" And Some Of Their Spouses Should Be Denied

54. Seven claims (the "**Sales Agent Claims**") were submitted by Tri-Med sales agents and certain of those sales agents' spouses (*see* Claim Nos. 282, 283, 284, 286, 287,

288, and 289). Specifically, the Sales Agent Claims were submitted by: (a) A.J. Brent; (b) Donald G. Brothers; (c) Jeffrey Miller; (d) Rosanna Okenquist; (e) Elliot Simon; (f) Edward Wendol (collectively, the “**Sales Agents**”); (g) Karen Gross, the spouse of sales agent William Gross; and (h) Christine Wendol, the spouse of sales agent Edward Wendol,¹² respectively (the “**Spouses**”). The Sales Agents were directly responsible for soliciting victims for Tri-Med’s fraudulent scheme, and they collectively received hundreds of thousands of dollars in commissions paid from investor funds for these illegal efforts. As detailed below, these claims should be denied because the Sales Agents and Spouses cannot satisfy their good faith obligations and because it would be inequitable to allow them to receive Receivership distributions in light of their roles in the scheme.

55. Courts sit as courts of equity over securities fraud receiverships. *See, e.g., Elliott*, 953 F.2d at 1566.¹³ As such, the Court has “broad powers and wide discretion” to fashion appropriate relief, including to devise a plan for distributing receivership assets. *See, e.g., id.* In resolving claims submitted in a claims process, courts consider a wide variety of factors, with the ultimate goal of fashioning an equitable system that treats similarly situated claimants equally. *See, e.g., Homeland Commc’ns Corp.*, 2010 WL

¹² Edward and Christine Wendol submitted a joint claim.

¹³ Florida courts look to interpretations of the federal securities laws for guidance in interpreting Florida’s securities law. *Ward v. Atl. Sec. Bank*, 777 So. 2d 1144, 1146-47 (Fla. 3d DCA 2001); *see also Zelman v. Cook*, 616 F. Supp. 1121, 1127 (S.D. Fla. 1985) (“federal securities law cases are highly persuasive in construing Florida’s securities law”); *Oppenheimer & Co. v. Young*, 456 So.2d 1175, 1178 (Fla. 1984) (“[T]he legislature intended that Florida securities laws be hand-in-glove with federal securities laws and that Florida purchasers of securities be granted the full range of civil remedies offered by both Florida and federal securities laws”).

2035326 at *2 (“[I]n deciding what claims should be recognized and in what amounts, the fundamental principle which emerges from case law is that any distribution should be done equitably and fairly, with similarly situated investors or customers treated alike....”) (quotation omitted); *Cunningham*, 265 U.S. at 13 (as among “equally innocent victims, equality is equity”); *Elliott*, 953 F.2d at 1570 (same).

56. Here, it would be inequitable to distribute any Receivership assets to Sales Agents because they committed a felony crime every time they sold a Tri-Med investment. The Sales Agents lacked the required licensure to sell securities in Florida, and consequently every one of their sales was a third-degree felony. Fla. Stats. § 517.302. This alone makes their receipt of any Receivership assets inequitable since those assets were procured through their and other sales agents’ criminal conduct. Further, their misconduct should be imputed to the Spouses’ investments with Tri-Med since their Sales Agent husbands were responsible for those investments.

57. Another consideration that makes the Sales Agents’ (and their Spouses’) receipt of any Receivership assets inequitable is that they lacked “good faith” or, put differently, they knew or should have known of fraud. *See, e.g., S.E.C. v. Megafund Corp.*, 2007 WL 1099640, *2 (N.D. Tex. 2007) (claims disallowed because claimants did not show they acted in good faith); *SEC v. Nadel*, Case No. 8:09-cv-0087-RAL-TBM (M.D. Fla. 2013) (Doc. 1061 at *11 - 13). The concept of good faith derives from fraudulent conveyance statutes, including the Florida Uniform Fraudulent Transfer Act, Fla. Stats. §§ 726.101 *et seq.* (“**FUFTA**”). Under FUFTA, the Receiver may recover transfers for the benefit of the Receivership estate that were made with “actual intent to hinder, delay, or

defraud” creditors (Fla. Stats. § 726.105(1)(a)), which intent is established as a matter of law when a transfer is made during a Ponzi scheme. *See, e.g., Wiand v. Lee*, 753 F.3d 1194, 1201 (11th Cir. 2014) (“[U]nder FUFTA’s actual fraud provision, proof that a transfer was made in furtherance of a Ponzi scheme establishes actual intent to defraud under § 726.105(1)(a) without the need to consider the badges of fraud”); *In re Christou*, 2010 WL 4008191, *3 (Bankr. N.D. Ga. 2010) (“Any transfers made during the course of a Ponzi scheme are presumptively made with intent to defraud.”); *Wing v. Horn*, 2009 WL 2843342, *4-5 (D. Utah 2009) (“[I]nference of fraudulent intent applies to all transfers from a Ponzi scheme”; categorizing transactions “is inconsistent with fraudulent transfer law’s focus on the transferor”). FUFTA provides an affirmative defense, however, under which the Receiver may not recover a transfer if, among other prerequisites, the transferee can demonstrate that it received the transfer in “good faith.” *See Fla. Stats. §§ 726.109(1), (2)(b)*.

58. Good faith is an objective standard. *See Terry v. June*, 432 F. Supp. 2d 635, 641 (W.D. Va. 2006). “The relevant inquiry is what the transferee objectively knew or should have known instead of examining the transferee’s actual knowledge from a subjective standpoint.” *See Quilling v. Stark*, 2007 WL 415351, *3 (N.D. Tex. 2007). “[I]f the circumstances would place a reasonable person on inquiry notice of a debtor’s fraudulent purpose, and *diligent* inquiry would have discovered the fraudulent purpose, then the transfer is fraudulent.” *In re World Vision Entm’t, Inc.*, 275 B.R. 641, 659 (Bankr. M.D. Fla. 2002). “Importantly, a transferee may not remain willfully ignorant of facts which would cause it to be on notice of a debtor’s fraudulent purpose, and then put on

‘blindness’ prior to entering into transactions with the debtor and claim the benefit of [the good faith defense].” *Id.* (internal citations and quotations omitted). In turn, a diligent inquiry “must ameliorate the issues that placed the transferee on inquiry notice in the first place” and cannot consist of merely inquiring with the transferor about the suspicious circumstances. *In re Bayou Group*, 396 B.R. 810, 846 (Bankr. S.D.N.Y. 2008).

59. In short, if a Claimant’s reasonable inquiry would have revealed any questions or concerns about any Receivership Entity or anyone associated with them, that Claimant could not have acted in good faith unless it subsequently conducted a diligent and reasonable inquiry which ameliorated those questions or concerns. Without satisfying these obligations, the Claimant was, at a minimum, on inquiry notice of fraud.

60. Florida courts have specifically addressed whether a securities broker – like the Sales Agents – acted in good faith when receiving commissions for selling interests in a fraudulent investment scheme. Under Florida law, “any broker selling short-term promissory notes, even unregistered promissory notes such as the debtor’s notes, has a minimal duty of care owed to investors.” *World Vision Entm’t, Inc.*, 275 B.R. at 654. At a minimum, this includes reviewing audited financial statements, company-provided literature on sales history, and key employees. *Id.* at 659; *see also In re Evergreen Sec., Ltd.*, 319 B.R. 245, 255 (Bankr. M.D. Fla. 2003). Thus, each of the Sales Agents had a legal duty to: (i) investigate the financial, performance, and personnel background of the investment manager or the offering company; (ii) ensure the associated risk factors and costs surrounding the investment strategy or product were disclosed and evaluated; and (iii) not rely solely on a sponsor’s or issuer’s word about an investment product. Nor could

they “refrain from asking hard questions about the legitimacy of the product, and then assume a proper investigation was completed.” *World Vision Entm’t, Inc.*, 275 B.R. at 660. In short, “circumstances putting the transferee on inquiry notice as to a debtor’s insolvency, an underlying fraud, or the improper nature of a transaction, will preclude a transferee from asserting a good faith defense.” *Evergreen Sec., Ltd.*, 319 B.R. at 255.

61. The Sales Agents ignored numerous red flags indicative of “insolvency, an underlying fraud, or the improper nature of the transaction” and failed to satisfy the minimum due diligence requirements discussed in *Evergreen* and *World Vision Entertainment*.¹⁴ The Sales Agents (1) did not review or receive Tri-Med financial statements as no proper corporate books and records were maintained; (2) did not review or investigate the history or background of key Tri-Med employees, especially Tri-Med’s principal, Defendant Anderson, who was a fugitive with an outstanding Florida arrest warrant for larceny; (3) did not investigate the associated risk factors and costs surrounding the investment strategy; and (4) were content with simply accepting assurances as to the

¹⁴ In a separate lawsuit, the Receiver has sued each of the Sales Agents to recover the commissions they received. See *Burton W. Wiand, as Receiver v. Jodie Miller, et al.*, Case No. 15-001082-CI (Pinellas County, Cir. Ct.); *Burton W. Wiand, as Receiver v. A.J. Brent*, Case No. 15-001074-CI (Pinellas County, Cir. Ct.). The Receiver has asserted FUFTA claims because the commissions the Sales Agents received were fraudulent transfers made with the “actual intent to hinder, delay, or defraud” creditors and the Sales Agents cannot satisfy the affirmative defense provided by Section § 726.109(1) because, among other things, they did not receive those transfers in good faith. See *World Vision Entm’t, Inc.*, 275 B.R. at 656 (“[A]ny acts taken in furtherance of the Ponzi scheme, such as paying brokers commissions, are also fraudulent.” (Emphasis added)). Just as FUFTA precludes the Sales Agents from retaining any money they received from the scheme, it would be inequitable to allow them to receive distributions of Receivership assets for a fraud that they helped perpetrate.

legality and legitimacy of the investments from Tri-Med and TMA principals. *Cf. Evergreen Sec., Ltd.*, 319 B.R. at 255; *World Vision Entm't, Inc.*, 275 B.R. at 659. No reasonable person would have proceeded with marketing and selling Tri-Med investments in light of these and numerous other evident red flags. Had the Sales Agents conducted any investigation, they would have quickly learned of the fraudulent nature of Tri-Med investments. Because the Sales Agents cannot demonstrate good faith, they are not entitled to receive any distribution of Receivership Assets also for this reason.

62. While the Spouses were not directly involved in the sale of Tri-Med investments, their familial relationship to the scheme warrants imputing the Sales Agents' lack of good faith to the Spouses. *See In re IFS Fin'l Corp.*, 417 B.R. 419, 444-45 (Bankr. S.D. Tex. 2009); *In re Bernard Madoff Inv. Sec., LLC*, 440 B.R. 243, 259-60 (Bankr. S.D.N.Y. 2010); *In re Manzanres*, 345 B.R. 773, 792 (Bankr. S.D. Fla. 2006); *In re Maxwell Newspapers*, 164 B.R. 858, 866-869 (Bankr. S.D.N.Y. 1994). Indeed, while the investments were made in the name of the Spouses (or jointly with their Sales Agent husband), the respective Sales Agent husband of each of those Spouses controlled and acted as the agent for that investment.

63. Spouse Karen Gross is the wife of sales agent William Gross, who played a significant role in selling Tri-Med investments and is currently being sued by the Receiver for recovery of over \$142,000 in commissions. Mrs. Gross also was involved in the sale and marketing of Tri-Med interests to investors. Spouse Christine Wendol is the wife of sales agent Edward Wendol, who is also being sued by the Receiver for recovery of over \$190,000 in commissions paid to his firm. As those Sales Agents functioned as the agents

for the investments made by their Spouses, those Sales Agents' lack of good faith is imputed to the Spouses. *IFS Fin'l*, 417 B.R. at 444-45; *Madoff*, 440 B.R. at 259-60; *Manzanres*, 345 B.R. at 792. Further, the money used for each of these investments came from a joint account shared by that spouse with her respective Sales Agent husband. Simply put, it would be inequitable and unjust to allow any Sales Agent, directly or indirectly with their Spouses, to receive assets from the Receivership estate because (a) they assisted with fraudulently obtaining those assets and (b) those assets should be paid to the very investors they defrauded. *See In re Bernard L. Madoff Inv. Sec. LLC*, 458 B.R. 87, 121 (Bankr. S.D.N.Y. 2011) (holding that in SIPA liquidation, claims of Madoff family members should be subordinated).

c. Sales Agent A.J. Brent's Claim Also Should Be Denied Because He Had Actual Notice Of The Fraud

64. Sales Agent A.J. Brent's ("**Brent**") claim also should be denied because he had actual notice of the fraud (*see* Claim No. 282). For example, on December 7, 2011, Defendant Irwin Ager emailed Brent and other salespeople multiple talking points to use with potential Tri-Med investors, including:

- Encouraging the salespeople to tell potential investors that the Tri-Med investment was an "insured investment" while explicitly acknowledging that they "technically...cannot say that"; and
- Encouraging the salespeople to tell investors that "their principle [sic] is going to be paid by **a major insurance company**" despite acknowledging that "technically, it is not."

65. Brent received this email one month before he sold any investments in Tri-Med. Despite knowing this information was false, Brent subsequently made these same material misrepresentations to numerous investors. Further, Brent testified in deposition

that he (a) had immediate concerns about the ‘unprofessional nature’ of Tri-Med’s marketing materials; (b) expressed concerns about Tri-Med’s control of investor funds, which was inconsistent with representations made to investors in offering documents; (c) did not agree with Tri-Med’s representations that an investment in Tri-Med was guaranteed; (d) identified numerous errors and discrepancies in an opinion letter purportedly prepared by an attorney on Tri-Med’s behalf; (e) learned that Bank of America closed Tri-Med’s bank accounts because the bank suspected that Tri-Med was running a fraudulent scheme yet did not correct contrary representations made to investors; and (f) requested that Tri-Med lower the interest rate paid to investors so as not to raise suspicions associated with offers of higher interest rates, and use the interest rate savings to increase his own commission. Because Brent had actual notice of Tri-Med’s fraud, his claim to share in Receivership assets should be denied.

d. Non-Investor Unsecured Claimant Tri-Med Management, Inc.’s Claim Should Be Denied

66. Claim Number 300 submitted on behalf of Tri-Med Management, Inc., should be denied because (a) it is a company created and controlled by Defendant Anderson and in fact serves as his alter ego; (b) Defendant Anderson already unlawfully diverted to it a large amount of investor funds; and (c) it had actual notice of fraud. This Claimant is a corporation created and controlled by Defendant Anderson, and consequently Defendant Anderson’s misconduct is imputed to it. *See IFS Fin’l Corp.*, 417 B.R. at 444-45; *Madoff*, 440 B.R. at 259-60; *Manzanres*, 345 B.R. at 792; *Maxwell Newspapers*, 164 B.R. at 866-869. Indeed, Tri-Med Management served as Defendant Anderson’s alter ego

as aside from fully controlling it, he used Tri-Med Management's bank account as his personal account.

67. Further, the purported loss covered by Tri-Med Management's claim involves defrauded Tri-Med investors' money which was diverted by Defendant Anderson to Tri-Med Management. Contrary to assertions in the claim, Defendant Anderson caused Tri-Med to transfer at least \$142,564 to Tri-Med Management's Associated Bank account, all of which was derived from the fraudulent investment scheme. Accordingly, this claim should be denied.¹⁵

e. The Claim Of Non-Investor Unsecured Claimant Stoel Rives, LLP, Should Be Denied

68. Claim Number 299 submitted by law firm Stoel Rives, LLP, also should be denied. Stoel Rives acted as counsel for Tri-Med in connection with the scheme, and it had actual knowledge of Defendants' fraud and other unlawful activities as of no later than November 2012. For example, in a December 7, 2012, memorandum (the "**Stoel Rives Memo**"), Stoel Rives outlined various violations of Florida and federal securities laws being committed by the Defendants in offering investments and soliciting investors for Tri-Med. Setting aside that no Stoel Rives lawyer providing legal advice to Defendants was licensed in Florida, the Stoel Rives Memo clearly notified the principals of Tri-Med that

¹⁵ Even if Tri-Med Management claims the frozen account contains money from other sources, all of that money should be treated as tainted because "*any commingling is enough to warrant treating all the funds as tainted.*" *S.E.C. v. Byers*, 637 F. Supp. 2d 166, 177 (S.D.N.Y. 2009). Because "money is fungible" it is "impossible to differentiate between 'tainted' and 'untainted' dollars...." *S.E.C. v. Lauer*, 2009 WL 812719, *4-5 (S.D. Fla. 2009). As such, "[o]nce proceeds become tainted, they cannot become untainted." *United States v. Ward*, 197 F.3d 1076, 1083 (11th Cir. 1999).

they were violating Florida and federal securities laws, including the anti-fraud provisions, by, among other things, not providing full and fair disclosure of information to investors; making inaccurate or misleading representations; advertising Tri-Med's "investment program" in newspapers and on Tri-Med's website; failing to register the securities and certain entities and individuals; and paying unlawful commissions. Defendants did not follow this advice, and Stoel Rives again reminded Tri-Med and its principals of these violations a year later, in December 2013. Instead of complying with its ethical and legal obligations, Stoel Rives continued to represent Tri-Med and its principals in connection with a variety of matters, including the underlying fraud. This conduct harmed the Receivership Entities and investors.

69. As detailed in the Stoel Rives Memo, Stoel Rives knew that Tri-Med was "engaged in the business of purchasing letters of protection from surgical centers or other providers of medical care ... in Florida." The Stoel Rives Memo noted that Tri-Med had offered and sold "Monthly Income Agreements" to over 100 investors raising a total of \$7 million as of December 2012. Despite these facts and knowledge of securities fraud and other misconduct, Stoel Rives continued to assist the principals of Tri-Med and other Receivership Entities with perpetrating fraud and other misconduct, including to misappropriate and divert investor funds for unauthorized purposes.

70. For example, Stoel Rives counseled, advised, and assisted principals of Tri-Med with the following matters that were not disclosed to investors: (a) a joint venture to purchase real estate with Tri-Med investor funds although it knew that Tri-Med investors were not informed their money would be used to buy real estate; (b) the preparation of

security agreements, promissory notes, and UCC filings for loans made with Tri-Med investor funds to third party companies, including Spine Pain Management (“**SPIN**”) and Visum Management LLC, although it knew that Tri-Med investors were not informed their money would be used for such loans; (c) assisting Defendant Anderson with investing in Balance Restaurant Group, LLC (“**Balance Restaurant**”), which investment was funded with Tri-Med investor funds, for which Stoel Rives’ fees were paid with Tri-Med investor funds, although it knew that Tri-Med investors were not informed their money would be used for such an investment or to pay legal fees for such matters; and (d) assisting Defendant Anderson with conducting due diligence on other possible investments using Tri-Med investor funds, for which Stoel Rives’ fees were paid with Tri-Med investor funds, although it knew that Tri-Med investors were not informed their money would be used for any such possible investments or to pay legal fees for such matters.

71. Stoel Rives also counseled, advised, and assisted Defendant Anderson in his personal capacity and created entities, including JA Management, LLC, and JRAM, LLC, which were either owned or controlled by Defendant Anderson or his girlfriend, Holly Kwon. It also counseled, advised, and assisted Tri-Med Management, another entity owned and controlled by Defendant Anderson. For these services, Stoel Rives improperly received payment from Tri-Med investor funds even though they did not involve work for Tri-Med. Under no circumstance should Stoel Rives have accepted payment from Tri-Med, especially since it knew the funds used to pay for these services came from investors who were told their funds would be used to purchase LOPs.

72. Indeed, despite knowing that Tri-Med was paying Stoel Rives' bills, Stoel Rives failed to perform adequate inquiry or other diligence regarding the purpose of these entities or their connection to Tri-Med. These entities were used by Defendant Anderson and others to divert and misappropriate assets from Tri-Med and to defraud its investors.

73. Similarly, despite knowing that money that Tri-Med received from investors was procured by fraud and other securities laws violations, Stoel Rives continued to accept payment for its services from Tri-Med in violation of its legal and professional duties.

74. Further, Stoel Rives' representation of multiple related clients as discussed above in paragraphs 70 and 71 created a conflict of interest for it, including because it knew Defendant Anderson and others were using Tri-Med to engage in fraud and other unlawful conduct, and those conflicts could not be waived by Defendant Anderson under applicable Rules of Professional Conduct.

75. With respect to sales of Tri-Med's "investment program," Stoel Rives knew that sales agents were giving its and its lawyers' names, including Jodi Johnson ("**Attorney Johnson**"), to potential investors as some assurance about the purported legitimacy of the investment. For example, Attorney Johnson spoke with a potential investor in September 2013, who was referred to her by a sales agent. Despite knowing for at least almost a year that Tri-Med's "investment program" was fraudulent, Attorney Johnson never disclosed that or any of the other unlawful activities detailed in the Stoel Rives Memo to that potential investor. Indeed, Attorney Johnson did not even inform the potential investor that Tri-Med should not have been offering or selling investments. Instead, Attorney Johnson directed the potential investor to speak with the principals of Tri-Med, whom she knew

were committing securities fraud and other misconduct. That potential investor invested with Tri-Med the following month.

76. These facts demonstrate that Stoel Rives knew that Tri-Med was continuing to sell securities despite the violations and warnings detailed in the Stoel Rives Memo from 10 months earlier that the Defendants were committing securities fraud and other legal violations, needed to immediately stop offering and selling the investments, and needed to refund investors and take additional steps. Nevertheless, Stoel Rives did not take any action in the best interest of Tri-Med: it did not withdraw from the representation, disclose the criminal and fraudulent conduct to law enforcement or regulators, or do anything else in accordance with its legal and professional duties and obligations. Rather, Stoel Rives continued to represent Tri-Med and related individuals and entities until the Receiver was appointed, including in the manner set forth above in paragraphs 70 and 71.

77. In sum, Claim Number 299, in which Stoel Rives seeks payment for purported fees it incurred representing Tri-Med, should be denied as discussed above and in **Exhibit F** in light of Stoel Rives' knowledge and aiding and abetting of the fraud and other wrongdoing since it would be inequitable for Stoel Rives to share in Receivership assets.¹⁶

¹⁶ At a minimum, if Stoel Rives' Claim Number 299 is not denied, it should be equitably subordinated to the Allowed and Allowed in Part claims of all other Claimants. "Equitable subordination does not deal with the existence or non-existence of the debt, but rather involves the question of order of payment." *In re Lockwood*, 14 B.R. 374, 380–81 (Bankr. E.D.N.Y. 1981). "The fundamental aim of equitable subordination is 'to undo or offset any inequality in the claim position of a creditor that will produce injustice or unfairness to other creditors....'" *Id.* (quoting *In re Westgate Cal. Corp.*, 642 F.2d 1174, 1177 (9th Cir. 1981)). "Subordination is an equitable power and is therefore governed by
(footnote cont'd)

f. Non-Investor Claim Which Should Be Denied Because Claimant Was An Employee Of A Receivership Entity

78. The Receiver also received a claim from a former “office manager” for a Receivership Entity (*see* Claim No. 294.) This Claimant handled certain aspects of communications with investors, including advising them that their funds purportedly were placed in an FDIC-insured trust account, of the timing of purported assignments of receivables, and of the date they would receive purported interest payments. This and other information sent by this Claimant to investors was false. Further, this Claimant received wages of approximately \$53,280 from Receivership Entities, which was paid from defrauded investors’ funds. This claim should be denied because under these circumstances it would be inequitable to give this Claimant any more money that rightfully belongs to defrauded investors. *See, e.g., Basic Energy*, 273 F.3d at 660 (affirming distribution plan that reduced recovery of employees based on level of involvement in fraudulent scheme); *Madoff*, 458 B.R. at 112 (“The Defendants unsuccessfully argue that their services constituted reasonably equivalent value and fair consideration given to BLMIS in exchange for their salaries.”).

equitable principles.” *Westgate Cal. Corp.*, 642 F.2d at 1177. “Courts equitably subordinate claims when the claimant has engaged in some type of inequitable conduct and the misconduct must have resulted in injury to the creditors of the bankrupt or conferred an unfair advantage on the claimant.” *Picard v. Katz*, 462 B.R. 447, 456 (Bankr. S.D.N.Y. 2011) (internal quotations omitted). “Inequitable conduct encompasses conduct that may be lawful but is nevertheless contrary to equity and good conscience.” *Id.* (internal quotation omitted). *Id.* (holding that “while the Trustee cannot disallow the defendants’ claims against the Madoff Securities’ estate, he can potentially subordinate them by proving that the defendants invested with Madoff Securities with knowledge, or in reckless disregard, of its fraud”).

3. Claim With No Supporting Documentation

79. The Receiver received a Non-Investor Claim from Mary Ann Nicholas, the daughter of Defendant Nicholas, Jr., to recover \$8,257.42 contained in a Regions Bank account which was frozen by the Order Appointing Receiver. (See Claim No. 298.) This Claimant contends the money in that frozen bank account is from a lawsuit settlement instead of from Tri-Med. In support of her claim, she provided a “settlement sheet” that shows she received \$7,836.82 on or about August 8, 2013, from a lawsuit settlement. She also provided an account summary for multiple Regions Bank accounts, including the frozen account. The account summary reflects the frozen account had a balance of \$8,170.47 as of April 20, 2014. However, she provided no documentation showing the settlement proceeds were deposited into the frozen account or, even assuming they were deposited in that account, that the money remaining in the account seven months after the alleged settlement deposit was still proceeds of that settlement. Further, although the settlement amount was \$7,836.82 and yet she seeks \$8,257.42, she did not explain or document the source of money that exceeds the settlement amount or why she seeks more than the settlement amount. For these reasons, Claim Number 298 should be denied for lack of sufficient supporting documentation as specified in **Exhibit F**.¹⁷

¹⁷ Assuming this Claimant provides all necessary documentation and the documentation establishes her right to any money, then the claim should be allowed in the amount of money supported by the documentation, but it should be paid only after the Allowed Amounts of all Investor Claims have been paid in full. In other words, it should receive the lowest priority among Allowed and Allowed In Part claims because in light of the relationship between this Claimant and Defendants Nicholas, Jr., and Nicholas, III, it would be inequitable to allow a member of the Nicholas family to receive funds before all defrauded investors are paid in full. See *Madoff*, 458 B.R. at 121 (claims of Madoff family
(footnote cont'd)

E. Priority Of Claims

80. As discussed above, the Receiver has established the following categories of claims: (a) Investor Claims which should be allowed; (b) Investor Claims which should be allowed in part; (c) Non-Investor Claims which should be allowed (in whole or in part); and (d) claims which should be denied. From these categories, the Receiver has determined the fair and equitable priority for each of these claims' participation in distributions of Receivership assets. The highest priority (“**Class 1**”) should be afforded to all Investor Claims which are Allowed (**Exhibit B**) and Investor Claims which are Allowed In Part (**Exhibit C**). Each Claimant holding a Class 1 claim will receive a distribution on a *pro rata* basis as detailed below in Section III.

81. Second priority (“**Class 2**”) should be afforded to Allowed and Allowed In Part Non-Investor Claims (**Exhibit D**). Claimants holding Class 2 claims will only participate in a distribution of Receivership assets after all Allowed Amounts for Class 1 claims have been satisfied in full.

82. The remaining claims (“**Class 3**”) are those which should be denied in full (**Exhibits E and F**). Claimants holding Class 3 claims will not receive any Receivership assets.

83. The Receiver’s proposed priority for claim categories is fair and equitable. The Court’s broad power to approve the Receiver’s claim determinations and priority of

members should be subordinated to claims of defrauded investors); *Elliot*, 953 F.2d at 1566 (court has “broad powers and wide discretion” to fashion appropriate relief, including in devising plan for distribution of receivership assets).

claims is settled. *See Elliott*, 953 F. 2d at 1566 (court has “broad powers and wide discretion” to assure equitable distributions). Further, courts routinely hold that treating similarly-situated parties alike in claims processes is fair and equitable. *Id.* at 1570; *United States v. Petters*, 2011 WL 281031, *7 (D. Minn. 2011). There is no requirement, however, that all claimants be treated in the same manner; rather, fairness only requires that similarly situated claimants should be treated alike. *See, e.g., Trade Partners, Inc.*, 2006 WL 3694629 at *1 (distinguishing between fraud victims and general creditors); *Byers*, 637 F. Supp. 2d at 184 (“The Receiver’s proposal to treat differently those involved in the fraudulent scheme when distributions are being made is eminently reasonable and is supported by caselaw.”).

84. Further, no specific method of distribution is required; the method of distribution should simply be “fair and equitable.” *S.E.C. v. P.B. Ventures*, 1991 WL 269982, *2 (E.D. Pa. 1991). In the end, “[a]n equitable plan is not necessarily a plan that everyone will like.” *Credit Bancorp*, 2000 WL 1752979 at *29. Indeed, “when funds are limited, hard choices must be made.” *Byers*, 637 F. Supp. 2d at 176 (quoting *Official Comm. of Unsecured Creditors of WorldCom, Inc. v. S.E.C.*, 467 F.3d 73, 84 (2d Cir. 2006)).

85. It is entirely appropriate to give Investor Claims from investors who were not on inquiry or actual notice of fraud highest priority. Typically, payment to claimants whose property was unlawfully taken from them, such as investors who had no reason to know of the scheme, is given a higher priority than payment to general creditors. *S.E.C. v. HKW Trading LLC*, 2009 WL 2499146, *3 (M.D. Fla. 2009); *Trade Partners, Inc.*, 2006

WL 3694629 at *1 (“As an equitable matter in receivership proceedings arising out of a securities fraud, the class of fraud victims takes priority over the class of general creditors with respect to proceeds traceable to the fraud.”); *see* III Clark on Receivers § 667 at 1154 (Anderson 3d ed. 1959). This is the appropriate priority because “[t]he equitable doctrine of constructive trusts gives ‘the party injured by the unlawful diversion a priority of right over the other creditors of the possessor.’” *Trade Partners, Inc.*, 2006 WL 3694629 at *1 (quoting Clark on Receivers § 662.1 at 1174); *see also* *Megafund*, 2007 WL 1099640 at *2 (general creditors “will not be paid until all defrauded investors are fully compensated”); *PrivateFX Global One*, 778 F. Supp. 2d at 786-87 (overruling objection of bank that extended line of credit and adopting receiver’s argument that “courts regularly grant defrauded investors a higher priority than defrauded creditors”).

II. ALL ASSETS AND LIABILITIES OF RECEIVERSHIP ENTITIES SHOULD BE POOLED TO FORM A SINGLE RECEIVERSHIP ESTATE

86. As discussed above in paragraphs 1 to 8 and 50 to 53, from at least October 2011 forward the Defendants used the Receivership Entities to defraud more than 230 investors. Pooling all Receivership Entities’ assets is appropriate because the Receivership Entities were operated as part of a single, continuous Ponzi scheme. All three Receivership Entities were fully funded with money from defrauded Tri-Med investors and that money was commingled.

87. Treating all Receivership assets as a single fund to pay all collective liabilities of the Receivership Entities benefits all Claimants and is consistent with the manner in which the Receivership Entities were operated. This requested relief is well within the Court’s broad power to administer this Receivership. *See HKW Trading*, 2009

WL 2499146 at *2; *see also Hardy*, 803 F.2d at 1040. The primary purpose of an equity receivership is to promote the orderly and efficient administration of the estate for the benefit of the creditors. *See Hardy*, 803 F.2d at 1038. Consolidating all of the assets and liabilities of the Receivership Entities best serves this purpose.

88. Courts routinely permit equity receivers to pool assets. *See, e.g., HKW Trading*, 2009 WL 2499146 at *6 (“The Court directs that all assets and liabilities of the Receivership Entities be consolidated for all purposes.”); *S.E.C. v. Credit Bancorp, Ltd.*, 290 F.3d 80, 91 (2d Cir. 2002) (affirming district court’s equitable authority to treat all fraud victims alike and order *pro rata* distribution of assets); *Basic Energy*, 273 F.3d at 663 (adopting receiver’s plan to create single pool of assets for all investors); *Elliott*, 953 F.2d at 1584 (approving district court’s decision to reject tracing and treat three companies as single entity); *S.E.C. v. Forex Asset Mgmt. LLC*, 242 F.3d 325, 332 (5th Cir. 2001) (affirming district court’s order approving receiver’s plan to distribute funds to all claimants on *pro rata* basis even though funds invested by two claimants were segregated by fraudster and traced to separate account); *Commodity Futures Trading Com’n v. Topworth Int’l, Ltd.*, 205 F.3d 1107, 1115-16 (9th Cir. 1999) (affirming district court’s adoption of receiver’s plan to treat three companies involved in scheme as one for purposes of paying claims because each entity appeared to be alter ego of the other); *Quilling v. Trade Partners, Inc.*, 2008 WL 4283359, *4 (W.D. Mich. 2008) (“In [r]e receivership cases where the fraud has features that are similar or common to all victims, and at least some commingling of funds occurred, *pro rata* distribution of pooled assets has been the standard.... ”); *S.E.C. v. Amerifirst Funding, Inc.*, 2008 WL 919546, *5 (N.D. Tex. 2008)

(“the most equitable approach is to pool the assets” of three receivership entities and distribute funds on *pro rata* basis even in absence of specific instances of commingling because entities were used similarly to further fraudulent scheme); *U.S. v. Durham*, 86 F.3d 70, 72-73 (5th Cir. 1996) (approving receiver’s plan to distribute money to claimants on *pro rata* basis even though majority of money could be traced to one claimant); *see also U.S. v. Real Property Located at 13328 & 13324 State Hwy.*, 89 F.3d 551, 553 (9th Cir. 1996) (approving district court’s finding that “[i]nstead of engaging in a tracing fiction, the equities demand that all [defrauded] customers share equally in the fund of pooled assets in accordance with the SEC plan”).

89. Indeed, courts have held that “*any* comingling is enough to warrant treating all the funds as tainted.” *Byers*, 637 F. Supp. 2d at 177. Because “money is fungible” it is “impossible to differentiate between ‘tainted’ and ‘untainted’ dollars....” *Lauer*, 2009 WL 812719 at *4-5. “Once proceeds become tainted, they cannot become untainted.” *Ward*, 197 F.3d at 1083. In addition, “when tainted funds are used to pay costs associated with maintaining ownership of [a] property, the property itself and its proceeds are tainted by the fraud.” *Lauer*, 2009 WL 812719 at *3 (citing *United States v. One Single Family Residence Located at 15603 85th Ave. North, Lake Park, Palm Beach County, Fla.*, 933 F.2d 976, 982 (11th Cir. 1991)).

90. In short, the most equitable and efficient approach is to pool all assets and liabilities of the Receivership Entities into one consolidated estate. *See S.E.C. v. Vescor Capital Corp.*, 599 F.3d 1189, 1194 (10th Cir. 2010) (“[I]n a case involving a Ponzi scheme, the interests of the [r]eceiver are very broad and include not only protection of the

receivership *res*, but also protection of defrauded investors and considerations of judicial economy”). To handle the estate in any other manner would be very expensive and unworkable.

III. THE RECEIVER’S PROPOSED PLAN OF DISTRIBUTION, INCLUDING AN INITIAL INTERIM DISTRIBUTION

91. The Receiver’s Proposed Plan of Distribution and first interim distribution as set forth below is in the best interest of the Receivership and the Claimants as a whole; is fair, reasonable, and equitable; and satisfies due process. The Court has wide latitude when it exercises its inherent equitable power in approving a plan of distribution of receivership funds. *Forex*, 242 F.3d at 331 (affirming District Court’s approval of plan of distribution because court used its discretion in “a logical way to divide the money”); *Quilling v. Trade Partners, Inc.*, 2007 WL 107669, *1 (W.D. Mich. 2007) (“In ruling on a plan of distribution, the standard is simply that the district court must use its discretion in a logical way to divide the money” (internal quotations omitted)). In approving a plan of distribution in a receivership, “the district court, acting as a court of equity, is afforded the discretion to determine the most equitable remedy.” *Forex*, 242 F.3d at 332. The Court may adopt any plan of distribution that is fair and reasonable. *S.E.C. v. Wang*, 944 F.2d 80, 83-84 (2d Cir. 1991); *Basic Energy*, 273 F.3d at 671.

92. As of August 31, 2015, the total balance of the Receivership accounts is **\$6,430,769.41**. The Receiver seeks leave to make distributions on a *pro rata* basis and requests the Court’s approval to make a first interim distribution of **26%** of the Allowed Amounts of Claimants with Class 1 claims, which will result in a total distribution to

defrauded investors of approximately \$3,962,109.30. Put simply, this distribution essentially would return to defrauded investors 26% of their losses.¹⁸

93. By distributing this amount the Receiver will be able to provide a significant amount of money to Claimants with Class 1 claims now while still maintaining adequate funds, including to cover the costs of (a) continuing ongoing litigation, (b) administering the Receivership, and (c) paying the Receiver's professionals for services already provided and yet to be provided. Further, as discussed below, the Receiver will be left with sufficient funds and assets to eventually pay claims which may be subject to objections in the event any objections are sustained.

94. The Receiver proposes that the first interim distribution (and any subsequent distributions) be made on a *pro rata* basis subject to applicable exceptions, priorities, and other parameters discussed in this Motion. Claimants entitled to participate in the first distribution will receive 26% of their Allowed Amount. The amount each Class 1 claim would receive as part of a first interim distribution is specified in **Exhibits B** and **C**.

95. The Receiver has proposed a procedure in Section IV below for Claimants to object to the claims determinations as approved by the Court. The procedure provides, in relevant part, that each Claimant will have 20 days from the date the Receiver mails each Claimant notice of the Court's order on this Motion to serve the Receiver with an objection to the Claimant's claim determination.

¹⁸ A few investors receiving distributions have sued the sales agents that sold them their respective investment with Tri-Med. The Receiver will monitor those lawsuits and seek necessary relief at the appropriate time to ensure those investors are not inequitably advantaged by filing their independent lawsuits.

96. The Receiver requests leave to make a first interim distribution in the amounts specified on **Exhibits B** and **C** as soon as practicable after the period for objections has expired without further order from the Court.¹⁹ Even after this distribution, the Receiver will have adequate funds to make any additional distributions to Claimants who timely file an objection in the event the objection is sustained. If a timely objection is to a determination of an Allowed Claim which is entitled to receive a first interim distribution, then the Receiver still will make a distribution to that Claimant based on the Allowed Amount as set forth in this Motion, and if the objection ultimately is sustained, the Claimant will receive a distribution on the additional amount to which the Claimant is deemed entitled at the same *pro rata* percentage as the initial distribution.

97. For example, if a Claimant claims his Net Investment Amount is \$50,000, but Receivership Records show the Net Investment Amount is \$40,000, then this Motion seeks approval of that claim in the Allowed Amount of \$40,000. Under the procedures set forth in this Motion, that Claimant would receive a first distribution of \$10,400 (*i.e.*, 26% of \$40,000). If that Claimant timely objects and, based on the objection, the Receiver (and ultimately the Court) concludes the correct Net Investment Amount is indeed \$50,000 instead of \$40,000, then that Claimant would receive an additional distribution of \$2,600 (*i.e.*, 26% of the \$10,000 which was in question). Thus, that Claimant would ultimately

¹⁹ It is possible the Receiver could receive an objection which would delay the distribution of funds to all Claimants or impact the percentage earmarked for an initial distribution. Absent such an objection, the Receiver will make every reasonable effort to distribute funds as soon as possible after the objection period has expired and he has reviewed any objections.

receive the same total first distribution amount he would have received if the initial Allowed Amount would have been \$50,000 as he claimed.

98. Because the Defendants intentionally targeted elderly investors, the Receiver is encountering instances in which the investor has passed. The Receiver requests the Court provide him authority to honor requests to change the name of the claimant/payee of a claim and, if necessary, to reissue distribution checks made payable to deceased Claimants if, in the Receiver's discretion, he is provided sufficient notification and proof.

99. The Receiver will mail distribution checks by regular U.S. Mail, and he requests that the Claimants be allowed 120 days to negotiate the distribution checks. If a check is not negotiated within 120 days, the money will revert to the Receivership for a future distribution. A deadline for negotiating distribution checks is necessary for the orderly administration of the Receivership.

100. To the extent possible and feasible, the Receiver will make additional interim distributions before making a final distribution at the close of the Receivership. The Receiver will seek leave from the Court for any subsequent interim and final distributions.

101. The Proposed Plan of Distribution and first interim distribution detailed above is fair and reasonable. Consistent with the features of this scheme, "Courts have favored pro rata distribution of assets where, as here, the funds of defrauded victims were commingled and where victims were similarly situated with respect to their relationship to the defrauders." *Credit Bancorp*, 290 F.3d at 88; see *Trade Partners*, 2007 WL 107669 at *2 ("The use of a *pro rata* distribution plan is especially appropriate for fraud victims of a

Ponzi scheme, in which earlier investors' returns are generated by the influx of fresh capital from unwitting newcomers rather than through legitimate investment activity."); *U.S. S.E.C. v. Infinity Grp. Co.*, 226 Fed. App'x 217, 218 (3d Cir. 2007) ("the Courts of Appeals repeatedly have recognized that *pro rata* distribution of a defrauder's assets to multiple victims of the fraud is appropriate and that District Courts act within their discretion in approving such distributions."). A fair and reasonable distribution plan may provide for reimbursement to certain claimants, while excluding others. *See Wang*, 944 F.2d at 84 (citations omitted); *Basic Energy*, 273 F.3d at 660-61.

IV. THE PROPOSED OBJECTION PROCEDURE

102. For efficiency, the Court should adopt a formal procedure to address instances where a Claimant does not agree with the Receiver's recommended determination of the Claimant's claim or objects to claim priority or the plan of distribution as approved by the Court. The procedure recommended below allows the Receiver to (1) address any disputed matters in a fair and efficient manner and (2) present any unresolved objections to the Court in an organized and, if appropriate, consolidated manner which will be efficient and, to the extent possible, avoid the Court's receipt of objections on a piecemeal basis. The procedure also provides each Claimant with notice and an opportunity to be heard in accordance with applicable due process obligations.

103. The Receiver respectfully requests the Court adopt the following objection procedure (the "**Proposed Objection Procedure**"):

- a) Within three (3) business days after the date of the Order on this Motion, the Receiver will post the Order on his website, www.trimedreceivership.com.

- b) Within ten (10) days after the date of the Order on this Motion, the Receiver will mail each Claimant by U.S. First Class Mail at the address provided on the Proof of Claim Form a letter setting forth the procedure for objecting to the Receiver's determination of a claim (the "**Receiver's Claim Determination**"), claim priority, or plan of distribution as approved by the Court. The letter will provide notice that the Court's Order on this Motion is available on the Receiver's website. The letter will further provide that a Claimant may contact the Receiver's office for a copy of the Motion and/or Order if a Claimant does not have access to the internet or cannot otherwise access the Motion and/or Order.
- c) Any Claimant that is dissatisfied with the Receiver's Claim Determination, claim priority, or plan of distribution must serve the Receiver in accordance with the service requirements of Rule 2.516(b)(2) of the Florida Rules of Judicial Administration with a written objection no later than twenty (20) days after the date of mailing of the Receiver's letter advising the Claimant of the Order on this Motion. All objections must be served on the Receiver at Burton W. Wiand c/o Maya M. Lockwood, Esq., Wiand Guerra King P.A., 5505 West Gray Street, Tampa, Florida 33609, and should not be filed with the Court. Such objections shall clearly state the nature and basis of the objection, and provide all supporting statements and documentation the Claimant wishes the Receiver and the Court to consider.
- d) Failure to properly and timely serve an objection to the Receiver's Claim Determination, claim priority, or plan of distribution shall permanently waive the Claimant's right to object to or contest the Receiver's Claim Determination, claim priority, and plan of distribution and the final claim amount shall be set as the Allowed Amount determined by the Receiver as set forth in the Exhibits attached to this Motion as approved by the Court.
- e) Although each objecting Claimant previously submitted to this Court's jurisdiction by filing a claim with the Receiver, by serving an objection the objecting Claimant shall be deemed to have confirmed submission to the exclusive jurisdiction of this Court. A person serving an objection to the Receiver's Claim Determination, claim priority, or plan of distribution, shall be entitled to notice, but only as it relates to adjudication of the

particular objection and the claim to which the objection is directed.

- f) The Receiver may attempt to settle and compromise any claim or objection subject to the Court's final approval.
- g) At such times as the Receiver deems appropriate, he shall file with the Court: (1) the Receiver's further determination of a claim with any supporting documents or statements he considers are appropriate, if any; (2) any unresolved objections, with supporting statements and documentation, as served on the Receiver by the Claimant; and (3) any settlements or compromises that the Receiver wishes the Court to rule upon.
- h) The Court may make a final determination based on the submissions identified in the previous paragraph or may set the matter for hearing and, following the hearing, make a final determination. The Claimant shall have the burden of proof. The Receiver will provide notice of such hearing as provided in paragraph e) above.

104. This Proposed Objection Procedure satisfies due process. Due process essentially requires that the proceeding be fair and that affected parties be given notice and an opportunity to be heard. *See Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985); *Elliott*, 953 F.2d at 1566. The use of summary proceedings to implement claims procedures is customary in receiverships and satisfies due process requirements when claimants receive an opportunity to be heard, to object to their claim determination, and to have their claims considered by a court. *See id.; Basic Energy*, 273 F.3d at 668-671. The Proposed Objection Procedure achieves each of these requirements.

105. *F.D.I.C. v. Bernstein* explains,

One common thread keeps emerging out of the cases involving equity receiverships – that is, a district court has extremely broad discretion in supervising an equity receivership and in determining the appropriate procedures to be used in its administration.

In keeping with this broad discretion, “the use of summary proceedings in equity receiverships as opposed to plenary proceedings under the Federal Rules of [Civil Procedure] is within the jurisdictional authority of a district court.” Such procedures “avoid formalities that would slow down the resolution of disputes. This promotes judicial efficiency and reduces litigation costs to the receivership,” thereby preserving receivership assets for the benefit of creditors.

786 F. Supp. 170, 177-78 (E.D.N.Y. 1992) (citations omitted). This Court should approve the Proposed Objection Procedure because it satisfies due process and is logical, fair, and reasonable. *See Elliott*, 953 F.2d at 1567 (summary proceedings are appropriate where party has full and fair opportunity to present claims and defenses). Specifically, the Proposed Objection Procedure provides for (1) notice to Claimants of the Receiver’s determination of their claims, claim priority, and plan of distribution; (2) the opportunity for Claimants to object to these matters; and (3) the review of unresolved objections by the Court.

106. Importantly, the Proposed Objection Procedure eliminates the need for any objections to be filed with the Court in direct response to this Motion. In turn, that will preclude inefficient piecemeal presentation and adjudication of objections by the Court. Such a piecemeal process would result in an inefficient claims process for both the Court and the Receivership. As such, the Proposed Objection Procedure promotes judicial efficiency and reduces litigation costs.

STATEMENT OF PLAINTIFF-OFR’S POSITION

Counsel for the Receiver has contacted counsel for Plaintiff-OFR, and Plaintiff-OFR has indicated it has no objection to the relief requested in this Motion.

CONCLUSION

For these reasons, the Receiver respectfully requests the Court enter an order:

- (1) Approving the Receiver's treatment and determination of claims as set forth in this Motion and in attached **Exhibits B** through **F**;
- (2) Authorizing the Receiver to pool and consolidate all Receivership Entities' assets and liabilities for all purposes, including for payment of administrative costs, receipt of third-party recoveries, and making distributions to holders of allowed claims;
- (3) Approving the Net Investment Method as set forth above and in the attached Exhibits as the proper method for calculating Allowed Amounts for Investor Claimants;
- (4) Approving the plan of distribution as set forth above in Section III;
- (5) Approving the Proposed Objection Procedure as set forth above in Section IV for objections to the plan of distribution and the Receiver's claim determinations and claim priorities as set forth in this Motion and attached **Exhibits B** through **F**;
- (6) Authorizing the Receiver to honor requests to change the name of the claimant/payee of a claim and/or reissue distribution checks made payable to deceased Claimants if, in the Receiver's discretion, he is provided sufficient notification and proof; and
- (7) Precluding and forever barring and enjoining further claims against Receivership Entities, Receivership property, the Receivership estate, or the Receiver by any Claimant, taxing authority, or any other public or private person or entity and precluding and forever barring and enjoining any other efforts to enforce or otherwise collect on any lien, debt, or other asserted interest in or against Receivership Entities, Receivership property, or the Receivership estate.

s/Gianluca Morello

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on September 9, 2015, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court by using the Florida Courts E-Filing Portal, which served the following parties and non-parties:

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s/Gianluca Morello

Gianluca Morello, FBN 034997

<p>STATE OF FLORIDA, OFFICE OF FINANCIAL REGULATION, Plaintiff,</p> <p>vs.</p> <p>TRI-MED CORPORATION, TRI-MED ASSOCIATES INC., JEREMY ANDERSON, ANTHONY N. NICHOLAS, III, ERIC AGER, IRWIN AGER, TERESA SIMMONS BORDINAT a/k/a TERESA SIMMONS, and ANTHONY N. NICHOLAS, JR., Defendants,</p> <p>TMFL HOLDINGS, LLC, Relief Defendant.</p> <hr/> <p>Case Number: 14-001695-CI Circuit Court of the Sixth Judicial Circuit, Pinellas County, Florida</p>	<p>Name and address of Claimant (Please print or type):</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------

ATTENTION:

Judge Anthony Rondolino of the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida, entered Orders appointing Burton W. Wiand as Receiver of Tri-Med Corporation, Tri-Med Associates Inc., and TMFL Holdings, LLC (individually, "Receivership Entity," and collectively, "Receivership Entities"). On March 27, 2015, the Court issued an Order establishing a Claim Bar Date for all claims and approving this Proof of Claim Form and the basic procedures to administer any claims. To be eligible to receive a distribution from the Receivership Entities' assets, you must complete and return this Proof of Claim Form and, if applicable, provide the requested documentation, so that it is received on or before **June 30, 2015, to Burton W. Wiand, Receiver, c/o Maya M. Lockwood, Esquire, Wiand Guerra King P.L., 5505 West Gray Street, Tampa, Florida 33609.** *The proper filing of this completed claim form may entitle you to receive a distribution from the Receivership. Altered forms will not be accepted.*

The information provided in this Proof of Claim Form will be used to determine your distribution, if any, from the Receivership. The Receiver has the right to dispute and/or verify any information you have provided to determine the proper distribution amount, if any, to which you may be entitled. The Receiver further has the right to amend any information he may have provided as to your Net Investment Amount. **By identifying and providing a Net Investment Amount for an investor the Receiver does not waive any right to (1) deny, contest the validity of, or otherwise object to a claim or (2), if warranted, amend the provided Net Investment Amount.**

IMPORTANT INFORMATION TO READ PRIOR TO SUBMITTING THIS FORM

Any person or entity submitting this Proof of Claim Form submits to the exclusive jurisdiction of this Court for all purposes, including, without limitation, as to any claims, objections, defenses, or counterclaims that could be or have been asserted by the Receiver against such Claimant or the holder of such claim in connection with this Receivership, including, those arising out of (1) any dealing or business transacted by or with any Receivership Entity or (2) any dealing or business transacted that relates in any way to any Receivership property. Further, Claimants waive any right to a jury trial with respect to such claims, objections, defenses, and counterclaims.

IF THIS COMPLETED FORM, SIGNED UNDER PENALTY OF PERJURY, IS NOT RECEIVED BY THE RECEIVER AT THE ABOVE-REFERENCED ADDRESS BY JUNE 30, 2015, YOU WILL BE FOREVER BARRED FROM ASSERTING ANY CLAIM AGAINST THE RECEIVERSHIP ENTITIES' ASSETS AND YOU WILL NOT BE ELIGIBLE TO RECEIVE ANY DISTRIBUTIONS FROM THE RECEIVER.

General Instructions:

You **must** answer each and every question. Please answer each question as fully as possible. If you need additional space to complete an answer, please attach a separate sheet of paper and indicate the number of the question for which you are providing the additional information. If the question does not apply to you, please write "not applicable." If the answer to the question is "no" or "none," please answer as such.

1. Full name, current address, telephone number, and email address of the Claimant (the person or entity making this claim to Receivership assets). _____

Would you like to be included on the Receiver's email distribution list? Yes ____ No ____

2. If this form is being completed by a person other than the Claimant or on behalf of an entity, please provide the full name, address, telephone number, and email address of the person completing this form and the basis for that person's authority to act on the Claimant's behalf. _____

3. If this form is being completed on behalf of an entity, please provide the full name of the entity and all of its trustees, officers, directors, managing agents, shareholders, partners, beneficiaries, and any other party with an interest in the entity. _____

4. Provide **one** mailing address where the Claimant authorizes the receipt of all future communications relating to this claim, including any possible distribution payment the Claimant may receive. It is the Claimant's sole responsibility to advise the Receiver of any change to this address after the submission of this form. _____

5. Provide the basis for your claim (please check applicable boxes):

- Investor
- Provided Goods or Services to a Receivership Entity
- Other (specify basis) _____

If you are not an investor, write "Not Applicable" to questions number 6 through 14. If you are an investor, write "Not Applicable" to questions number 15 through 17.

Questions Specific to Investors

6. Please refer to Exhibit A attached to this document. If sufficient information is available, this Exhibit provides the following information: (1) the total amount invested; (2) the total amount received; and (3) the Net Investment Amount. Do the amounts listed in the Exhibit accurately represent the total amount of your investment and all funds you received related to this investment? Failure to respond to this question will mean that you agree with the amounts listed in the Exhibit.

_____ Yes, I agree with the amounts listed. _____ No, I do not agree with the amounts listed.

If you answered yes, you do not have to respond to questions 7, 8, and 9. If you answered no, you must answer questions 7, 8, and 9 and provide copies of the documents requested.

7. Please provide the following information regarding your investment in or with, or interest in, any Receivership Entity, and attach copies of all checks, bank or other financial account statements, invoices, wire transfer confirmations, and other documents relating to your answer.

1st investment in or with the Receivership Entities:

totaled \$ _____ and was made on _____ (date); through a check (or wire transfer) made payable to _____ and drawn on account number _____ with _____ (identify financial institution).

If applicable, 2nd investment in or with the Receivership Entities:

totaled \$ _____ and was made on _____ (date); through a check (or wire transfer) made payable to _____ and drawn on account number _____ with _____ (identify financial institution).

If additional investments were made, please attach a separate sheet identifying (1) those amounts, (2) the dates on which they were made, (3) the payee of the check (or recipient of the wire transfer), and (4) the account number and financial institution on which the check was drawn or the wire transfer initiated.

Total amount you are claiming you invested with the Receivership Entities: \$ _____

8. Have you ever received any money from a Receivership Entity, including as an “interest” payment or “return of principal” on your investment or for any other reason? _____ Yes _____ No. If yes, please provide the following information for each amount received, and attach copies of all checks, bank or other financial account statements, wire transfer confirmations, and other documents relating to your answers.

	<u>Date</u>	<u>Amount</u>	<u>Payor/Payee of check/wire</u>
A.	_____	_____	_____
B.	_____	_____	_____
C.	_____	_____	_____

If any additional amounts were received from any Receivership Entity, please attach a separate sheet identifying those amounts, the dates on which they were received, and the payor and payee of the check(s) or wire transfers.

Total amount you are claiming you received from the Receivership Entities: \$ _____

9. State the total amount of your claim (this is the amount that you are claiming you are owed from the Receivership): \$ _____
10. Did you receive any other funds or anything of value other than money (for example, a car or shares of stock) from any Receivership Entity, any of the Defendants (see case caption on first page for names), or anyone acting on their behalf? ___ Yes ___ No. If yes, please identify how much or what you received, from whom, and the date it was received. _____

11. Provide the name of the person or persons who solicited your investment in or with the Receivership Entities.

12. Please explain the way in which you came to learn about Tri-Med Corporation, Tri-Med Associates, and/or TMFL Holdings and thereafter invest in or with them, including the person who introduced you to these entities, the statements made by that person, any documents provided by that person, meetings you had with the representative(s) of those entities, information that you relied on, and any other information.

13. Are you related by blood or marriage to any of the Defendants in this matter or any former employee of any of the Receivership Entities? ___ Yes ___ No. If yes, to whom are you related and what is the relationship. _

14. Did you receive any commissions or other compensation of any nature from any Receivership Entity? ___ Yes ___ No. If yes, please identify how much or what you received, from whom, and the date it was received. _____

Questions Specific To Non-Investor Claimants

15. If you were not an investor, state with specificity how you claim an interest in any distribution by the Receivership Entities (for example, you provided goods or services to a Receivership Entity for which you have not been paid). _____

16. State the amount you claim you are owed by any Receivership Entity. \$ _____
Attach copies of all documents relating to your claim (for example, copies of all invoices submitted to a Receivership Entity and copies of records of all payments received from same). If you delivered goods to a Receivership Entity, include a copy of the document confirming receipt by a representative of the Receivership Entity.

17. Identify your contact person or persons at the Receivership Entities. _____

Question for all Claimants:

18. Have you sued, threatened suit, or otherwise commenced any lawsuits, arbitrations, actions, or other proceedings, or made any demands against any person or entity relating in any way to your claim? ____ Yes ____ No. If yes, please identify the nature and status of any such action, the name of the attorney who commenced the action, and any monies received. _____

Please submit this completed and signed, under penalty of perjury, Proof of Claim Form and legible copies of any documentation requested in this form to **Burton W. Wiand, Receiver, c/o Maya M. Lockwood., Esquire, Wiand Guerra King P.L., 5505 West Gray Street, Tampa, Florida 33609, SO THAT IT IS RECEIVED NO LATER THAN JUNE 30, 2015.**

IF YOU DO NOT AGREE WITH ANY AMOUNTS PROVIDED ON EXHIBIT A OR NO AMOUNTS WERE PROVIDED ON EXHIBIT A, YOU MUST PROVIDE COPIES OF ALL DOCUMENTS OR OTHER MATERIALS THAT ARE RELATED IN ANY WAY TO YOUR INVESTMENT IN THE RECEIVERSHIP ENTITIES, OR, IF YOU ARE NOT AN INVESTOR, TO YOUR CLAIM AGAINST A RECEIVERSHIP ENTITY, INCLUDING COPIES OF YOUR CANCELLED CHECKS, BANK OR OTHER FINANCIAL ACCOUNT STATEMENTS SHOWING THE TRANSFER OF FUNDS INVESTED AND RECEIVED, STATEMENTS FROM THE RECEIVERSHIP ENTITIES, WIRE TRANSFER CONFIRMATIONS, AND ANY OTHER DOCUMENTS REGARDING YOUR CLAIM(S).

By signing below, I certify under penalty of perjury pursuant to Florida law that the information provided in this form is true and correct.

Signature of Claimant: _____

Print Name: _____

Date: _____

Title (if any): _____

EXHIBIT A

Investor Name:

Amount Invested:	\$
Total Payments:	\$
Net Investment Amount:	\$

THE RECEIVER HAS PROVIDED THE ABOVE INFORMATION BASED UPON DOCUMENTS AVAILABLE TO HIM. THESE FIGURES ARE BELIEVED TO BE ACCURATE AND REASONABLE CONCLUSIONS. PLEASE CAREFULLY REVIEW THE ABOVE AMOUNTS. IF THE NUMBERS PROVIDED ARE NOT CONSISTENT WITH YOUR RECORDS, IT IS YOUR OBLIGATION TO PROVIDE TRUE AND CORRECT INFORMATION TO THE RECEIVER. IF YOU CONFIRM THAT THE ABOVE AMOUNTS ACCURATELY REPRESENT THE AMOUNT YOU INVESTED, ALL AMOUNTS YOU RECEIVED RELATING TO THIS INVESTMENT, AND ANY OTHER FUNDS YOU RECEIVED FROM THE RECEIVERSHIP ENTITIES, YOU ARE DOING SO UNDER PENALTY OF PERJURY.

BY IDENTIFYING AND PROVIDING THE ABOVE FIGURES, THE RECEIVER DOES NOT WAIVE ANY RIGHT TO (1) DENY, CONTEST THE VALIDITY OF, OR OTHERWISE OBJECT TO A CLAIM OR, (2) IF WARRANTED, AMEND ANY OF THE PROVIDED FIGURES.

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
1	\$44,120.00	The Receiver recommends that this claim be allowed.	\$44,120.00	\$11,471.20
2	\$98,700.00	The Receiver recommends that this claim be allowed.	\$98,700.00	\$25,662.00
3	\$47,120.00	The Receiver recommends that this claim be allowed.	\$47,120.00	\$12,251.20
4	\$146,748.00	The Receiver recommends that this claim be allowed.	\$146,748.00	\$38,154.48
5	\$9,829.00	The Receiver recommends that this claim be allowed.	\$9,829.00	\$2,555.54
6	\$9,886.00	The Receiver recommends that this claim be allowed.	\$9,886.00	\$2,570.36
7	\$96,622.00	The Receiver recommends that this claim be allowed.	\$96,622.00	\$25,121.72
8	\$29,493.00	The Receiver recommends that this claim be allowed.	\$29,493.00	\$7,668.18
9	\$9,285.00	The Receiver recommends that this claim be allowed.	\$9,285.00	\$2,414.10
10	\$269,037.00	The Receiver recommends that this claim be allowed.	\$269,037.00	\$69,949.62
11	\$63,635.53	The Receiver recommends that this claim be allowed.	\$63,635.53	\$16,545.24
12	\$21,326.00	The Receiver recommends that this claim be allowed.	\$21,326.00	\$5,544.76
13	\$39,119.00	The Receiver recommends that this claim be allowed.	\$39,119.00	\$10,170.94
14	\$54,654.00	The Receiver recommends that this claim be allowed.	\$54,654.00	\$14,210.04
15	\$18,460.00	The Receiver recommends that this claim be allowed.	\$18,460.00	\$4,799.60
16	\$140,910.00	The Receiver recommends that this claim be allowed.	\$140,910.00	\$36,636.60
17	\$48,414.00	The Receiver recommends that this claim be allowed.	\$48,414.00	\$12,587.64
18	\$19,388.00	The Receiver recommends that this claim be allowed.	\$19,388.00	\$5,040.88
19	\$14,490.00	The Receiver recommends that this claim be allowed.	\$14,490.00	\$3,767.40
20	\$19,322.00	The Receiver recommends that this claim be allowed.	\$19,322.00	\$5,023.72
21	\$51,722.00	The Receiver recommends that this claim be allowed.	\$51,722.00	\$13,447.72
22	\$24,718.00	The Receiver recommends that this claim be allowed.	\$24,718.00	\$6,426.68
23	\$99,437.00	The Receiver recommends that this claim be allowed.	\$99,437.00	\$25,853.62
24	\$9,568.00	The Receiver recommends that this claim be allowed.	\$9,568.00	\$2,487.68
25	\$231,503.00	The Receiver recommends that this claim be allowed.	\$231,503.00	\$60,190.78
26	\$18,365.00	The Receiver recommends that this claim be allowed.	\$18,365.00	\$4,774.90
27	\$33,852.00	The Receiver recommends that this claim be allowed.	\$33,852.00	\$8,801.52

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
28	\$36,632.00	The Receiver recommends that this claim be allowed.	\$36,632.00	\$9,524.32
29	\$14,412.00	The Receiver recommends that this claim be allowed.	\$14,412.00	\$3,747.12
30	\$18,038.00	The Receiver recommends that this claim be allowed.	\$18,038.00	\$4,689.88
31	\$9,760.00	The Receiver recommends that this claim be allowed.	\$9,760.00	\$2,537.60
32	\$19,209.00	The Receiver recommends that this claim be allowed.	\$19,209.00	\$4,994.34
33	\$19,548.00	The Receiver recommends that this claim be allowed.	\$19,548.00	\$5,082.48
34	\$21,504.00	The Receiver recommends that this claim be allowed.	\$21,504.00	\$5,591.04
35	\$23,364.00	The Receiver recommends that this claim be allowed.	\$23,364.00	\$6,074.64
36	\$25,600.00	The Receiver recommends that this claim be allowed.	\$25,600.00	\$6,656.00
37	\$11,116.00	The Receiver recommends that this claim be allowed.	\$11,116.00	\$2,890.16
38	\$74,578.00	The Receiver recommends that this claim be allowed.	\$74,578.00	\$19,390.28
39	\$9,568.00	The Receiver recommends that this claim be allowed.	\$9,568.00	\$2,487.68
40	\$19,435.00	The Receiver recommends that this claim be allowed.	\$19,435.00	\$5,053.10
41	\$9,601.00	The Receiver recommends that this claim be allowed.	\$9,601.00	\$2,496.26
42	\$33,426.00	The Receiver recommends that this claim be allowed.	\$33,426.00	\$8,690.76
43	\$9,520.00	The Receiver recommends that this claim be allowed.	\$9,520.00	\$2,475.20
44	\$368,485.72	The Receiver recommends that this claim be allowed.	\$368,485.72	\$95,806.29
45	\$33,969.00	The Receiver recommends that this claim be allowed.	\$33,969.00	\$8,831.94
46	\$12,160.00	The Receiver recommends that this claim be allowed.	\$12,160.00	\$3,161.60
47	\$26,368.00	The Receiver recommends that this claim be allowed.	\$26,368.00	\$6,855.68
48	\$116,990.03	The Receiver recommends that this claim be allowed.	\$116,990.03	\$30,417.41
49	\$9,601.00	The Receiver recommends that this claim be allowed.	\$9,601.00	\$2,496.26
50	\$19,292.00	The Receiver recommends that this claim be allowed.	\$19,292.00	\$5,015.92
51	\$9,943.00	The Receiver recommends that this claim be allowed.	\$9,943.00	\$2,585.18
52	\$72,744.00	The Receiver recommends that this claim be allowed.	\$72,744.00	\$18,913.44
53	\$95,725.00	The Receiver recommends that this claim be allowed.	\$95,725.00	\$24,888.50
54	\$26,414.00	The Receiver recommends that this claim be allowed.	\$26,414.00	\$6,867.64

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
55	\$55,901.00	The Receiver recommends that this claim be allowed.	\$55,901.00	\$14,534.26
56	\$35,754.00	The Receiver recommends that this claim be allowed.	\$35,754.00	\$9,296.04
57	\$184,986.00	The Receiver recommends that this claim be allowed.	\$184,986.00	\$48,096.36
58	\$15,251.00	The Receiver recommends that this claim be allowed.	\$15,251.00	\$3,965.26
59	\$136,099.00	The Receiver recommends that this claim be allowed.	\$136,099.00	\$35,385.74
60	\$28,848.00	The Receiver recommends that this claim be allowed.	\$28,848.00	\$7,500.48
61	\$19,232.00	The Receiver recommends that this claim be allowed.	\$19,232.00	\$5,000.32
62	\$273,099.00	The Receiver recommends that this claim be allowed.	\$273,099.00	\$71,005.74
63	\$27,984.00	The Receiver recommends that this claim be allowed.	\$27,984.00	\$7,275.84
64	\$19,059.00	The Receiver recommends that this claim be allowed.	\$19,059.00	\$4,955.34
65	\$9,280.00	The Receiver recommends that this claim be allowed.	\$9,280.00	\$2,412.80
66	\$18,752.00	The Receiver recommends that this claim be allowed.	\$18,752.00	\$4,875.52
67	\$42,192.00	The Receiver recommends that this claim be allowed.	\$42,192.00	\$10,969.92
68	\$63,997.22	The Receiver recommends that this claim be allowed.	\$63,997.22	\$16,639.28
69	\$12,600.00	The Receiver recommends that this claim be allowed.	\$12,600.00	\$3,276.00
70	\$52,949.00	The Receiver recommends that this claim be allowed.	\$52,949.00	\$13,766.74
71	\$9,232.00	The Receiver recommends that this claim be allowed.	\$9,232.00	\$2,400.32
72	\$12,500.00	The Receiver recommends that this claim be allowed.	\$12,500.00	\$3,250.00
73	\$127,804.00	The Receiver recommends that this claim be allowed.	\$127,804.00	\$33,229.04
74	\$20,645.00	The Receiver recommends that this claim be allowed.	\$20,645.00	\$5,367.70
75	\$23,220.00	The Receiver recommends that this claim be allowed.	\$23,220.00	\$6,037.20
76	\$172,527.00	The Receiver recommends that this claim be allowed.	\$172,527.00	\$44,857.02
77	\$443,400.00	The Receiver recommends that this claim be allowed.	\$443,400.00	\$115,284.00
78	\$148,200.00	The Receiver recommends that this claim be allowed.	\$148,200.00	\$38,532.00
79	\$33,368.00	The Receiver recommends that this claim be allowed.	\$33,368.00	\$8,675.68
80	\$7,588.00	The Receiver recommends that this claim be allowed.	\$7,588.00	\$1,972.88
81	\$16,784.00	The Receiver recommends that this claim be allowed.	\$16,784.00	\$4,363.84

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
82	\$85,993.00	The Receiver recommends that this claim be allowed.	\$85,993.00	\$22,358.18
83	\$9,715.00	The Receiver recommends that this claim be allowed.	\$9,715.00	\$2,525.90
84	\$13,858.00	The Receiver recommends that this claim be allowed.	\$13,858.00	\$3,603.08
85	\$8,392.00	The Receiver recommends that this claim be allowed.	\$8,392.00	\$2,181.92
86	\$18,147.00	The Receiver recommends that this claim be allowed.	\$18,147.00	\$4,718.22
87	\$23,920.00	The Receiver recommends that this claim be allowed.	\$23,920.00	\$6,219.20
88	\$9,943.00	The Receiver recommends that this claim be allowed.	\$9,943.00	\$2,585.18
89	\$28,848.00	The Receiver recommends that this claim be allowed.	\$28,848.00	\$7,500.48
90	\$29,831.00	The Receiver recommends that this claim be allowed.	\$29,831.00	\$7,756.06
91	\$7,584.00	The Receiver recommends that this claim be allowed.	\$7,584.00	\$1,971.84
92	\$8,459.00	The Receiver recommends that this claim be allowed.	\$8,459.00	\$2,199.34
93	\$21,752.00	The Receiver recommends that this claim be allowed.	\$21,752.00	\$5,655.52
94	\$206,405.00	The Receiver recommends that this claim be allowed.	\$206,405.00	\$53,665.30
95	\$24,520.00	The Receiver recommends that this claim be allowed.	\$24,520.00	\$6,375.20
96	\$31,907.00	The Receiver recommends that this claim be allowed.	\$31,907.00	\$8,295.82
97	\$42,276.00	The Receiver recommends that this claim be allowed.	\$42,276.00	\$10,991.76
98	\$8,735.00	The Receiver recommends that this claim be allowed.	\$8,735.00	\$2,271.10
99	\$9,520.00	The Receiver recommends that this claim be allowed.	\$9,520.00	\$2,475.20
100	\$49,718.00	The Receiver recommends that this claim be allowed.	\$49,718.00	\$12,926.68
101	\$40,394.00	The Receiver recommends that this claim be allowed.	\$40,394.00	\$10,502.44
102	\$46,448.00	The Receiver recommends that this claim be allowed.	\$46,448.00	\$12,076.48
103	\$45,122.00	The Receiver recommends that this claim be allowed.	\$45,122.00	\$11,731.72
104	\$19,598.00	The Receiver recommends that this claim be allowed.	\$19,598.00	\$5,095.48
105	\$63,978.66	The Receiver recommends that this claim be allowed.	\$63,978.66	\$16,634.45
106	\$48,998.00	The Receiver recommends that this claim be allowed.	\$48,998.00	\$12,739.48
107	\$9,601.00	The Receiver recommends that this claim be allowed.	\$9,601.00	\$2,496.26
108	\$58,986.00	The Receiver recommends that this claim be allowed.	\$58,986.00	\$15,336.36

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
109	\$19,887.00	The Receiver recommends that this claim be allowed.	\$19,887.00	\$5,170.62
110	\$11,478.00	The Receiver recommends that this claim be allowed.	\$11,478.00	\$2,984.28
111	\$29,831.00	The Receiver recommends that this claim be allowed.	\$29,831.00	\$7,756.06
112	\$9,772.00	The Receiver recommends that this claim be allowed.	\$9,772.00	\$2,540.72
113	\$9,010.00	The Receiver recommends that this claim be allowed.	\$9,010.00	\$2,342.60
114	\$28,704.00	The Receiver recommends that this claim be allowed.	\$28,704.00	\$7,463.04
115	\$9,715.00	The Receiver recommends that this claim be allowed.	\$9,715.00	\$2,525.90
116	\$9,601.00	The Receiver recommends that this claim be allowed.	\$9,601.00	\$2,496.26
117	\$58,212.00	The Receiver recommends that this claim be allowed.	\$58,212.00	\$15,135.12
118	\$28,848.00	The Receiver recommends that this claim be allowed.	\$28,848.00	\$7,500.48
119	\$9,184.00	The Receiver recommends that this claim be allowed.	\$9,184.00	\$2,387.84
120	\$22,552.00	The Receiver recommends that this claim be allowed.	\$22,552.00	\$5,863.52
121	\$14,640.00	The Receiver recommends that this claim be allowed.	\$14,640.00	\$3,806.40
122	\$9,520.00	The Receiver recommends that this claim be allowed.	\$9,520.00	\$2,475.20
123	\$19,136.00	The Receiver recommends that this claim be allowed.	\$19,136.00	\$4,975.36
124	\$46,160.00	The Receiver recommends that this claim be allowed.	\$46,160.00	\$12,001.60
125	\$19,921.00	The Receiver recommends that this claim be allowed.	\$19,921.00	\$5,179.46
126	\$34,126.00	The Receiver recommends that this claim be allowed.	\$34,126.00	\$8,872.76
127	\$19,019.00	The Receiver recommends that this claim be allowed.	\$19,019.00	\$4,944.94
128	\$38,065.00	The Receiver recommends that this claim be allowed.	\$38,065.00	\$9,896.90
129	\$66,986.00	The Receiver recommends that this claim be allowed.	\$66,986.00	\$17,416.36
130	\$8,721.00	The Receiver recommends that this claim be allowed.	\$8,721.00	\$2,267.46
131	\$9,129.00	The Receiver recommends that this claim be allowed.	\$9,129.00	\$2,373.54
132	\$9,808.00	The Receiver recommends that this claim be allowed.	\$9,808.00	\$2,550.08
133	\$8,258.00	The Receiver recommends that this claim be allowed.	\$8,258.00	\$2,147.08
134	\$48,308.00	The Receiver recommends that this claim be allowed.	\$48,308.00	\$12,560.08
135	\$26,700.00	The Receiver recommends that this claim be allowed.	\$26,700.00	\$6,942.00

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
136	\$17,384.00	The Receiver recommends that this claim be allowed.	\$17,384.00	\$4,519.84
137	\$49,718.00	The Receiver recommends that this claim be allowed.	\$49,718.00	\$12,926.68
E	\$97,840.00	The Receiver recommends that this claim be allowed subject to confirmation that the Claimant (1) did not receive any commissions or compensation of any nature from any Receivership Entity, (2) did not receive any other funds or anything of value other than money from any Receivership Entity, any of the Defendants, or anyone acting on their behalf, and (3) has not received any money relating to her claim in connection with any litigation she may have instituted.	\$97,840.00	\$25,438.40
139	\$28,704.00	The Receiver recommends that this claim be allowed.	\$28,704.00	\$7,463.04
140	\$59,324.00	The Receiver recommends that this claim be allowed.	\$59,324.00	\$15,424.24
141	\$9,886.00	The Receiver recommends that this claim be allowed.	\$9,886.00	\$2,570.36
142	\$16,784.00	The Receiver recommends that this claim be allowed.	\$16,784.00	\$4,363.84
143	\$29,324.00	The Receiver recommends that this claim be allowed.	\$29,324.00	\$7,624.24
144	\$19,209.00	The Receiver recommends that this claim be allowed.	\$19,209.00	\$4,994.34
145	\$57,200.00	The Receiver recommends that this claim be allowed.	\$57,200.00	\$14,872.00
146	\$34,506.00	The Receiver recommends that this claim be allowed.	\$34,506.00	\$8,971.56
147	\$129,026.00	The Receiver recommends that this claim be allowed.	\$129,026.00	\$33,546.76
148	\$9,616.00	The Receiver recommends that this claim be allowed.	\$9,616.00	\$2,500.16
149	\$28,704.00	The Receiver recommends that this claim be allowed.	\$28,704.00	\$7,463.04
150	\$8,900.00	The Receiver recommends that this claim be allowed.	\$8,900.00	\$2,314.00
151	\$9,943.00	The Receiver recommends that this claim be allowed.	\$9,943.00	\$2,585.18
152	\$37,613.00	The Receiver recommends that this claim be allowed.	\$37,613.00	\$9,779.38
153	\$29,568.00	The Receiver recommends that this claim be allowed.	\$29,568.00	\$7,687.68
154	\$114,987.00	The Receiver recommends that this claim be allowed.	\$114,987.00	\$29,896.62
155	\$26,577.00	The Receiver recommends that this claim be allowed.	\$26,577.00	\$6,910.02
156	\$60,210.00	The Receiver recommends that this claim be allowed.	\$60,210.00	\$15,654.60
157	\$30,320.00	The Receiver recommends that this claim be allowed.	\$30,320.00	\$7,883.20
158	\$128,202.00	The Receiver recommends that this claim be allowed.	\$128,202.00	\$33,332.52

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
159	\$9,616.00	The Receiver recommends that this claim be allowed.	\$9,616.00	\$2,500.16
160	\$24,718.00	The Receiver recommends that this claim be allowed.	\$24,718.00	\$6,426.68
161	\$36,791.00	The Receiver recommends that this claim be allowed.	\$36,791.00	\$9,565.66
162	\$146,337.00	The Receiver recommends that this claim be allowed.	\$146,337.00	\$38,047.62
163	\$55,057.00	The Receiver recommends that this claim be allowed.	\$55,057.00	\$14,314.82
164	\$101,316.00	The Receiver recommends that this claim be allowed.	\$101,316.00	\$26,342.16
165	\$40,480.00	The Receiver recommends that this claim be allowed.	\$40,480.00	\$10,524.80
166	\$8,861.00	The Receiver recommends that this claim be allowed.	\$8,861.00	\$2,303.86
167	\$8,735.00	The Receiver recommends that this claim be allowed.	\$8,735.00	\$2,271.10
168	\$8,392.00	The Receiver recommends that this claim be allowed.	\$8,392.00	\$2,181.92
169	\$9,184.00	The Receiver recommends that this claim be allowed.	\$9,184.00	\$2,387.84
170	\$9,136.00	The Receiver recommends that this claim be allowed.	\$9,136.00	\$2,375.36
171	\$38,875.00	The Receiver recommends that this claim be allowed.	\$38,875.00	\$10,107.50
172	\$3,952.00	The Receiver recommends that this claim be allowed.	\$3,952.00	\$1,027.52
173	\$4,354.00	The Receiver recommends that this claim be allowed.	\$4,354.00	\$1,132.04
174	\$9,664.00	The Receiver recommends that this claim be allowed.	\$9,664.00	\$2,512.64
175	\$25,127.00	The Receiver recommends that this claim be allowed.	\$25,127.00	\$6,533.02
176	\$13,114.00	The Receiver recommends that this claim be allowed.	\$13,114.00	\$3,409.64
177	\$15,682.00	The Receiver recommends that this claim be allowed.	\$15,682.00	\$4,077.32
178	\$236,179.00	The Receiver recommends that this claim be allowed.	\$236,179.00	\$61,406.54
179	\$45,906.00	The Receiver recommends that this claim be allowed.	\$45,906.00	\$11,935.56
180	\$77,300.00	The Receiver recommends that this claim be allowed.	\$77,300.00	\$20,098.00
181	\$36,176.00	The Receiver recommends that this claim be allowed.	\$36,176.00	\$9,405.76
182	\$71,054.00	The Receiver recommends that this claim be allowed.	\$71,054.00	\$18,474.04
183	\$13,605.00	The Receiver recommends that this claim be allowed.	\$13,605.00	\$3,537.30
184	\$19,209.00	The Receiver recommends that this claim be allowed.	\$19,209.00	\$4,994.34
185	\$33,000.00	The Receiver recommends that this claim be allowed.	\$33,000.00	\$8,580.00

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
186	\$27,200.00	The Receiver recommends that this claim be allowed.	\$27,200.00	\$7,072.00
187	\$12,884.00	The Receiver recommends that this claim be allowed.	\$12,884.00	\$3,349.84
188	\$9,715.00	The Receiver recommends that this claim be allowed.	\$9,715.00	\$2,525.90
189	\$131,739.78	The Receiver recommends that this claim be allowed.	\$131,739.78	\$34,252.34
190	\$69,606.00	The Receiver recommends that this claim be allowed.	\$69,606.00	\$18,097.56
191	\$42,141.00	The Receiver recommends that this claim be allowed.	\$42,141.00	\$10,956.66
192	\$74,243.00	The Receiver recommends that this claim be allowed.	\$74,243.00	\$19,303.18
193	\$9,601.00	The Receiver recommends that this claim be allowed.	\$9,601.00	\$2,496.26
194	\$47,840.00	The Receiver recommends that this claim be allowed.	\$47,840.00	\$12,438.40
195	\$47,840.00	The Receiver recommends that this claim be allowed.	\$47,840.00	\$12,438.40
196	\$59,520.00	The Receiver recommends that this claim be allowed.	\$59,520.00	\$15,475.20
197	\$37,052.00	The Receiver recommends that this claim be allowed.	\$37,052.00	\$9,633.52
198	\$35,823.00	The Receiver recommends that this claim be allowed.	\$35,823.00	\$9,313.98
199	\$10,067.00	The Receiver recommends that this claim be allowed.	\$10,067.00	\$2,617.42
200	\$25,210.00	The Receiver recommends that this claim be allowed.	\$25,210.00	\$6,554.60
201	\$8,547.00	The Receiver recommends that this claim be allowed.	\$8,547.00	\$2,222.22
202	\$19,661.00	The Receiver recommends that this claim be allowed.	\$19,661.00	\$5,111.86
203	\$9,658.00	The Receiver recommends that this claim be allowed.	\$9,658.00	\$2,511.08
204	\$37,150.00	The Receiver recommends that this claim be allowed.	\$37,150.00	\$9,659.00
205	\$6,335.00	The Receiver recommends that this claim be allowed.	\$6,335.00	\$1,647.10
206	\$66,860.84	The Receiver recommends that this claim be allowed.	\$66,860.84	\$17,383.82
207	\$48,308.00	The Receiver recommends that this claim be allowed.	\$48,308.00	\$12,560.08
208	\$73,783.00	The Receiver recommends that this claim be allowed.	\$73,783.00	\$19,183.58
209	\$29,361.75	The Receiver recommends that this claim be allowed.	\$29,361.75	\$7,634.06
210	\$47,996.00	The Receiver recommends that this claim be allowed.	\$47,996.00	\$12,478.96
211	\$14,508.00	The Receiver recommends that this claim be allowed.	\$14,508.00	\$3,772.08
212	\$9,772.00	The Receiver recommends that this claim be allowed.	\$9,772.00	\$2,540.72

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
213	\$19,283.00	The Receiver recommends that this claim be allowed.	\$19,283.00	\$5,013.58
214	\$9,616.00	The Receiver recommends that this claim be allowed.	\$9,616.00	\$2,500.16
215	\$97,748.00	The Receiver recommends that this claim be allowed.	\$97,748.00	\$25,414.48
216	\$175,008.00	The Receiver recommends that this claim be allowed.	\$175,008.00	\$45,502.08
217	\$30,744.00	The Receiver recommends that this claim be allowed.	\$30,744.00	\$7,993.44
218	\$15,555.00	The Receiver recommends that this claim be allowed.	\$15,555.00	\$4,044.30
219	\$99,437.00	The Receiver recommends that this claim be allowed.	\$99,437.00	\$25,853.62
220	\$37,916.00	The Receiver recommends that this claim be allowed.	\$37,916.00	\$9,858.16
221	\$9,829.00	The Receiver recommends that this claim be allowed.	\$9,829.00	\$2,555.54
222	\$83,825.00	The Receiver recommends that this claim be allowed.	\$83,825.00	\$21,794.50
223	\$47,730.00	The Receiver recommends that this claim be allowed.	\$47,730.00	\$12,409.80
224	\$38,425.00	The Receiver recommends that this claim be allowed.	\$38,425.00	\$9,990.50
225	\$39,209.00	The Receiver recommends that this claim be allowed.	\$39,209.00	\$10,194.34
226	\$17,856.00	The Receiver recommends that this claim be allowed.	\$17,856.00	\$4,642.56
227	\$123,733.00	The Receiver recommends that this claim be allowed.	\$123,733.00	\$32,170.58
228	\$48,251.00	The Receiver recommends that this claim be allowed.	\$48,251.00	\$12,545.26
229	\$17,929.00	The Receiver recommends that this claim be allowed.	\$17,929.00	\$4,661.54
230	\$9,772.00	The Receiver recommends that this claim be allowed.	\$9,772.00	\$2,540.72
231	\$33,635.00	The Receiver recommends that this claim be allowed.	\$33,635.00	\$8,745.10
232	\$24,139.00	The Receiver recommends that this claim be allowed.	\$24,139.00	\$6,276.14
233	\$39,100.00	The Receiver recommends that this claim be allowed.	\$39,100.00	\$10,166.00
234	\$9,658.00	The Receiver recommends that this claim be allowed.	\$9,658.00	\$2,511.08
235	\$283,462.15	The Receiver recommends that this claim be allowed.	\$283,462.15	\$73,700.16
236	\$120,292.52	The Receiver recommends that this claim be allowed.	\$120,292.52	\$31,276.06
237	\$93,496.00	The Receiver recommends that this claim be allowed.	\$93,496.00	\$24,308.96
238	\$42,986.00	The Receiver recommends that this claim be allowed.	\$42,986.00	\$11,176.36
239	\$9,568.00	The Receiver recommends that this claim be allowed.	\$9,568.00	\$2,487.68

Exhibit B

Investor Claims - Allowed

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
240	\$56,466.00	The Receiver recommends that this claim be allowed.	\$56,466.00	\$14,681.16
241	\$52,582.00	The Receiver recommends that this claim be allowed.	\$52,582.00	\$13,671.32
242	\$19,136.00	The Receiver recommends that this claim be allowed.	\$19,136.00	\$4,975.36
243	\$112,718.00	The Receiver recommends that this claim be allowed.	\$112,718.00	\$29,306.68
244	\$48,590.00	The Receiver recommends that this claim be allowed.	\$48,590.00	\$12,633.40
245	\$19,232.00	The Receiver recommends that this claim be allowed.	\$19,232.00	\$5,000.32
246	\$54,184.40	The Receiver recommends that this claim be allowed.	\$54,184.40	\$14,087.94
Total	\$11,514,815.60		\$11,514,815.60	\$2,993,852.07

Exhibit C

Investor Claims - Allowed in Part

Claim Number	Claim Amount	Non-quantified Claim	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount	First Distribution Notes
247	\$25,490.88		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$25,343.88	\$6,589.41	
248	\$84,703.00		Subsequent to the Receiver providing the Proof of Claim Form to the Claimants, he discovered additional payments were made to the Claimants. Accordingly, the Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$84,036.00	\$21,849.36	
249	\$247,980.00		Subsequent to the Receiver providing the Proof of Claim Form to the Claimant, he discovered additional payments were made to the Claimant. Accordingly, the Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$247,867.00	\$64,445.42	
250	\$32,150.00	Plus lost interest and opportunity costs.	The Claimant seeks False Interest Payments and lost opportunity costs. The Claimant is not entitled to recover False Interest Payments or lost opportunity costs. Accordingly, the Receiver recommends that this claim be allowed for the Net Investment Amount.	\$32,150.00	\$8,359.00	
251	\$49,708.00	Plus lost interest and opportunity cost.	The Claimant seeks False Interest Payments and lost opportunity costs. The Claimant is not entitled to recover False Interest Payments or lost opportunity costs. Accordingly, the Receiver recommends that this claim be allowed for the Net Investment Amount.	\$49,708.00	\$12,924.08	

Exhibit C

Investor Claims - Allowed in Part

Claim Number	Claim Amount	Non-quantified Claim	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount	First Distribution Notes
252	\$50,000.00		Subsequent to the Receiver providing the Proof of Claim Form to the Claimant, he discovered additional payments were made to the Claimant. Accordingly, the Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$49,718.00	\$12,926.68	
253	\$84,678.66		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$69,728.66	\$18,129.45	
254	\$34,016.00		Subsequent to the Receiver providing the Proof of Claim Form to the Claimant, he discovered additional payments were made to the Claimant. Accordingly, the Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$33,728.00	\$8,769.28	
255	\$52,445.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$51,724.00	\$13,448.24	
256	\$17,884.00		The Receiver recommends that this claim be allowed subject to a set-off for expenses incurred by the Receiver and his counsel in connection with an involuntary bankruptcy proceeding initiated by the Claimant. The Receiver proposes that he retain 50% of the distribution which this claim is entitled to receive until the time any such set-off is adjudicated by the Court.	\$17,884.00	\$4,649.84	The Receiver has proposed that he retain 50% of the first interim distribution amount until the Receiver's motion for set-off is adjudicated by the Court.

Exhibit C

Investor Claims - Allowed in Part

Claim Number	Claim Amount	Non-quantified Claim	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount	First Distribution Notes
257	\$40,000.00	Plus 18 months interest.	The Claimants seek False Interest Payments which they are not entitled to recover. The Receiver recommends that this claim be allowed for the Net Investment Amount subject to a set-off for expenses incurred by the Receiver and his counsel in connection with an involuntary bankruptcy proceeding initiated by the Claimants. The Receiver proposes that he retain 50% of the distribution which this claim is entitled to receive until the time any such set-off is adjudicated by the Court.	\$18,419.00	\$4,788.94	The Receiver has proposed that he will retain 50% of the first interim distribution amount until the Receiver's motion for set-off is adjudicated by the Court.
258	\$80,235.00		The Claimant seeks False Interest Payments and a Net Investment Amount that is inconsistent with the Receivership Records. The Claimant is not entitled to recover False Interest Payments. Accordingly, the Receiver recommends that this claim be allowed for the Net Investment Amount that is consistent with the Receivership Records.	\$56,869.00	\$14,785.94	
259	\$13,994.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$13,726.00	\$3,568.76	
260	\$335,000.00		The Receiver recommends that this claim be allowed for the Net Investment Amount that is consistent with the Receivership Records subject to a set-off for expenses incurred by the Receiver and his counsel in connection with an involuntary bankruptcy proceeding initiated by the Claimant. The Receiver proposes that he retain 50% of the distribution which this claim is entitled to receive until the time any such set-off is adjudicated by the Court.	\$285,533.00	\$74,238.58	The Receiver has proposed that he will retain 50% of the first interim distribution amount until the Receiver's motion for set-off is adjudicated by the Court.

Exhibit C

Investor Claims - Allowed in Part

Claim Number	Claim Amount	Non-quantified Claim	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount	First Distribution Notes
261	\$54,065.00		The Claimant seeks False Interest Payments which she is not entitled to recover. The Receiver recommends that this claim be allowed for the Net Investment Amount subject to a set-off for expenses incurred by the Receiver and his counsel in connection with an involuntary bankruptcy proceeding initiated by the Claimant. The Receiver proposes that he retain 50% of the distribution which this claim is entitled to receive until the time any such set-off is adjudicated by the Court.	\$46,748.00	\$12,154.48	The Receiver has proposed that he will retain 50% of the first interim distribution amount until the Receiver's motion for set-off is adjudicated by the Court.
262	\$53,623.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$46,327.00	\$12,045.02	
263	\$33,782.00		As discussed in the Motion, the Receiver recommends that the Net Investment Amount for this claim be reduced by \$571.00 for false profits the Claimant received in connection with Claim Number 285.	\$33,211.00	\$8,634.86	
264	\$17,568.83		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$17,468.83	\$4,541.90	
265	\$11,634.09		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$11,339.09	\$2,948.16	
266	\$40,000.00	Plus interest.	The Claimant seeks False Interest Payments which he is not entitled to recover. The Receiver recommends that this claim be allowed for the Net Investment Amount.	\$38,425.00	\$9,990.50	
267	\$40,000.00	Plus interest.	The Claimant seeks False Interest Payments which he is not entitled to recover. The Receiver recommends that this claim be allowed for the Net Investment Amount.	\$39,775.00	\$10,341.50	

Exhibit C

Investor Claims - Allowed in Part

Claim Number	Claim Amount	Non-quantified Claim	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount	First Distribution Notes
268	\$470,811.00		In the Proof of Claim Form submitted by the Claimant, he identified an additional \$4,875.00 he received in relation to this investment. The Receiver recommends that the Net Investment Amount be reduced to reflect these additional payments.	\$465,936.00	\$121,143.36	
269	\$150,057.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$140,257.00	\$36,466.82	
270	\$20,000.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$19,583.28	\$5,091.65	
271	\$29,813.64		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$27,915.00	\$7,257.90	
272	\$44,789.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$44,522.00	\$11,575.72	
273	\$9,808.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$9,520.00	\$2,475.20	
274	\$183,740.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$178,862.00	\$46,504.12	
275	\$733,992.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$731,174.00	\$190,105.24	
276	\$9,633.06		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$8,790.00	\$2,285.40	
277	\$10,000.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$9,376.00	\$2,437.76	
278	\$35,000.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$30,746.00	\$7,993.96	

Exhibit C

Investor Claims - Allowed in Part

Claim Number	Claim Amount	Non-quantified Claim	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount	First Distribution Notes
279	\$645,256.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$629,056.00	\$163,554.56	
280	\$145,878.00		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$145,116.00	\$37,730.16	
281	\$14,550.53		The Receiver recommends that this claim be allowed in the amount that is consistent with the Receivership Records.	\$13,484.53	\$3,505.98	
Total	\$3,902,285.69			\$3,724,066.27	\$968,257.23	

Exhibit D

Non-Investor Claims - Allowed and Allowed in Part

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
290	\$242.49	The Receiver recommends that this claim be allowed, but that the claim be eligible for distributions only after all Class 1 claims are paid in full.	\$242.49	\$0.00
291	\$6,858.29	The Receiver recommends that this claim be allowed in the amount of \$4,525.02, which is the amount of regular assessments for April 2014 through June 2015, and denies the remainder of the claim which documentation indicates is for interest, late fees, collection costs, and attorneys, fees/costs. The Receiver further recommends that this claim be eligible for distributions only after all Class 1 claims are paid in full.	\$4,525.02	\$0.00
292	\$7,346.57	The Receiver recommends that this claim be allowed as an unsecured Non-Investor Claim and be eligible for distributions only after all Class 1 claims are paid in full.	\$7,346.57	\$0.00
Total	\$14,447.35		\$12,114.08	\$0.00

Exhibit E

Investor Claims - Denied

Claim Number	Claim Amount	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
282	\$10,000.00	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
283	\$19,616.00	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
284	\$9,010.00	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
285	(\$571.00)	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
286	\$23,831.00	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
287	\$10,000.00	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
288	\$26,500.00	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
289	\$44,273.00	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
Total	\$142,659.00		\$0.00	\$0.00

Exhibit F

Non-Investor Claims - Denied

Claim Number	Claim Amount	Non-quantified Claim	Recommended Claim Determination	Allowed Amount	Proposed First Distribution Amount
293	\$250,000.00	Plus personal assets from a storage unit.	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
294	\$288.00	Letter for access to 401k funds.	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
295	\$250,000.00	Or more, plus 50% of corporate stock.	The Receiver recommends that this claim be denied.	\$0.00	\$0.00
296	\$9,438.99		The Receiver recommends that this claim be denied.	\$0.00	\$0.00
297	\$8,512.30		The Receiver recommends that this claim be denied.	\$0.00	\$0.00
298	\$8,257.42		The Receiver recommends that this claim be denied.	\$0.00	\$0.00
299	\$81,884.00		The Receiver recommends that this claim be denied.	\$0.00	\$0.00
300	\$28,000.00		The Receiver recommends that this claim be denied.	\$0.00	\$0.00
Total	\$636,380.71			\$0.00	\$0.00