

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Civil Action No. 3:16-CV-1735-D
	§	
CHRISTOPHER A. FAULKNER, et al.,	§	
	§	
Defendants.	§	

**MOTION FOR LEAVE TO DISALLOW CLAIMS
OF CERTAIN CLAIMANTS THAT CANNOT BE LOCATED**

Thomas L. Taylor III (the “Receiver”), Court-appointed temporary receiver in the above-styled enforcement action¹, respectfully moves the Court for authorization to disallow the claims of certain Potential Claimants² which the Receiver has been unable to locate (the “Unreachable Claimants,” as further defined at **Exhibit A** attached hereto). Disallowing the claims of the Unreachable Claimants would serve to increase the *pro rata* share of net losses claimed against the Receivership Estate by the remaining, identified claimants through the Court-approved Plan of Distribution. *See* Memorandum Opinion and Order, ECF No. 541 (“Order Approving Plan”), at 3 (“Plan”).³ In this regard, most Potential Claimants would receive several thousand dollars more in total distributions.

¹ *See, e.g.*, Third Amended Order Appointing Receiver, ECF No. 496 (“Order Appointing Receiver”), at ¶2.

² Order Implementing Plan of Distribution, ECF No. 542 (“Order Implementing Plan”), at 2 (defined as “(1) all parties that the Receiver identifies from Receivership-related records as potentially having a claim; (2) all parties who identified themselves to the Receiver in writing as potentially having a claim prior to entry of this Order; and (3) all parties who identify themselves to the Receiver as potentially having a claim on or before [the Claim Bar Date].”) (footnotes omitted).

³ All capitalized terms not defined herein have the meaning given to them in the Order Approving Plan.

I. SUMMARY

This Court previously approved the Receiver’s “Claims Confirmation Process” through which the Receiver would calculate a notional claim amount -- and ultimately determine a “Final Claim Amount” -- for each Potential Claimant participating in the Plan.⁴ Order Approving Plan, at 6. The Potential Claimants for whom the Receiver calculated notional claim amounts fell into two primary categories: (1) Potential Claimants who identified themselves to the Receiver prior to the Claim Bar Date⁵ pursuant to the Order Implementing Plan, and (2) Potential Claimants who were identified solely from Receivership-related records by the Receiver’s staff and accounting professionals at Pannell Kerr Forster of Texas P.C. (“PKF Texas”). *See, e.g.*, Certificate of Service of Notice of Plan, ECF No. 440 (“Certificate of Service”), at ¶3.

The Receiver attempted in several ways to locate and contact in writing those Potential Claimants who did not identify themselves to the Receiver (in addition to publishing notice of the Receiver’s proposed Plan in The Dallas Morning News and the national edition of the Wall Street Journal). *First*, the Receiver served his Notice of Plan [ECF No. 406-1] by U.S. First Class Mail to these Potential Claimants’ last known addresses pursuant to FED. R. CIV. P. 5(b)(2)(C). ECF No. 440 at ¶4. *Second*, to the extent that previous mailings were not returned by the U.S. Postal Service (“USPS”) without a forwarding address, the Receiver mailed notices of notional claims to Potential Claimants’ last known addresses. *Third*, to the extent that the previous mailings were not returned by the USPS without a forwarding address, the Receiver mailed interim distribution checks to Potential Claimants’ last known addresses. When these mailings were returned to the Receiver

⁴ In approving the Plan, the Court found that all Potential Claimants -- including the Unreachable Claimants -- had received notice of the Receiver’s Motion to Approve Proposed Plan of Distribution and to Establish Procedures to Determine and Disallow Final Claims, ECF Nos. 406, 407 (“Motion to Approve Plan”), whether by publication or pursuant to FED. R. CIV. P. 5(b)(2)(C), and had an opportunity to be heard with respect to the Plan. Order Approving Plan, at 4 – 5.

⁵ The Claim Bar Date was Friday, October 30, 2020. Order Implementing Plan, at 2.

without a forwarding address⁶, the Receiver's staff searched their previous correspondence and Receivership-related records, and in some cases conducted internet searches, in efforts to locate accurate contact information for the claimants. The Receiver also engaged Easy-Serve, LLC ("Easy-Serve") to conduct "skip traces" to identify contact information related to certain Potential Claimants with claims exceeding \$100,000 and for whom the Receiver had record of a previous address.

Notwithstanding these efforts, the Receiver was unable to locate approximately 159 Potential Claimants due to missing or bad addresses, whose claims total approximately \$9,000,000. Additionally, the Receiver mailed interim distribution checks totaling approximately \$1,550,000 to approximately 125 Potential Claimants (representing claims of approximately \$18,500,000) which checks have neither been returned by the USPS nor negotiated by the recipient as of the filing of this Motion.⁷ The Receiver's staff undertook similar efforts to identify claimants who failed to negotiate their interim distributions checks as with those whose mail was returned without a forwarding address.

Because these Unreachable Claimants have received notice of the Receivership, the Receiver's Plan, the Claims Confirmation Process and the Claim Bar Date and have not identified themselves to the Receiver -- and the Receiver's efforts to locate them have been unsuccessful -- the Receiver now moves for leave to disallow these claims.

⁶ If mail returned by the USPS contained a forwarding address, the item was mailed again to that address.

⁷ Of these Potential Claimants, approximately 25 checks totaling approximately \$215,000 have been reissued to forwarding addresses and are outstanding. To the extent these recipients negotiate their reissued interim distribution checks in a reasonable time period following the submission of this Motion, the Receiver would not disallow those claims.

II. ARGUMENT AND AUTHORITY

In approving and implementing the Receiver's Plan and Claims Confirmation Process, the Court held that "the estates of the Receivership Entities shall be forever discharged from any indebtedness or liability to any and all parties that are not Potential Claimants," including any party that did not contact the Receiver in writing and identify itself to the Receiver before the Claim Bar Date of October 30, 2020. Order Implementing Plan, at 2. The Receiver requests that the Court now, upon the same authority, authorize the Receiver -- in his sole discretion⁸ -- to disallow the claims of the Potential Claimants who are Unreachable Claimants.

In this regard, with respect to its approval of the Plan and the Claims Confirmation Process, the Court "employ[ed] summary rather than plenary proceedings to adjudicate the rights to property allegedly within the receivership estate. Such summary proceedings related to [the] receivership[did] not offend the parties' due process rights '[because] there [was] adequate notice and opportunity to be heard.'"⁹ The Court's use of such summary proceedings "promote[d] judicial efficiency and reduce[d] litigation costs to the receivership, thereby preserving receivership assets

⁸ The Receiver requests the Court grant him discretion to allow or disallow the claims of the Unreachable Claimants because it remains possible that an Unreachable Claimant could identify itself to the Receiver in a time frame in which including them in the Plan would not disrupt the implementation of the final distribution of Receivership Assets at the close of the Receivership.

⁹ *SEC v. Amerifirst Funding, Inc.*, No. 3:07-cv-1188-D, 2008 WL 282275, at *15 (N.D. Tex. Feb. 1, 2008), *aff'd in part, vacated in part, on other grounds, remanded sub nom. Whitcraft v. Brown*, 570 F.3d 268 (5th Cir. 2009) (quoting *SEC v. Am. Capital Investments, Inc.*, 98 F.3d 1133, 1146 (9th Cir. 1996), *abrogated by Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 118 S. Ct. 1003, 140 L. Ed. 2d 210 (1998)) (citing *SEC v. Wencke*, 783 F.2d 829, 838 (9th Cir. 1986); *SEC v. Universal Fin.*, 760 F.2d 1034, 1037 (9th Cir. 1985)) (footnote omitted).

See also SEC v. Elliott, 953 F.2d 1560, 1567 (11th Cir. 1992) ("[A] district court does not generally abuse its discretion if its summary procedures permit parties to present evidence when the facts are in dispute and to make arguments regarding those facts."); *McFarland v. Winnebago South, Inc.*, 863 F. Supp. 1025, 1034 (W.D. Mo. 1994) ("[T]he receivership court has the power to use summary procedures in allowing, disallowing, and subordinating claims of creditors, so long as creditors have fair notice and a reasonable opportunity to respond."); *FDIC v. Bernstein*, 786 F. Supp. 170, 177 (E.D.N.Y. Jan. 10, 1992) ("A district court has extremely broad discretion in supervising an equity receivership and in determining the appropriate procedures to be used in its administration."); 13 Moore's Federal Practice (3d ed.) § 66.06[4][b] ("The powers of the courts include the allowance, disallowance, and subordination of the claims of creditors.").

for the benefit of [claimants].” *Bernstein*, 786 F. Supp. at 177 (internal citations omitted). In employing summary procedures, “the rights of creditors of [the] receivership [were] balanced against the need for expeditious administration of the receivership.” *SEC v. Hardy*, 803 F.2d 1034, 1039 (9th Cir. 1986).

All Unreachable Claimants were given notice of the Motion to Approve Plan and the Claims Confirmation Process, and had the opportunity to (i) object to that relief or (ii) identify themselves to the Receiver and provide him with accurate, current contact information in order to participate in the Claims Confirmation Process. Order Implementing Plan, at 1 (holding that “sufficient notice of the Plan ... [was] given by the Receiver” to all potentially affected parties) (citing Order Approving Plan). In this regard, the Receiver served the Motion to Approve Plan “on all counsel of record and *pro se* parties in the Enforcement Action,” Motion to Approve Plan, at 28, and:

compiled a list of 1,369 entities and individuals potentially affected by the Plan. Of this number, the Receiver was able to obtain addresses for 1,150, and the Notice of Plan [ECF No. 406-1] was served on those individuals and entities. As prescribed by the court, notices were also published in *The Dallas Morning News* and the national edition of *The Wall Street Journal*. The Receiver filed his Proof of Service on June 5, 2019, and objections were due by June 26, 2019.

Order Approving Plan, at 4 – 5 (footnote omitted); *see also* Certificate of Service, at ¶¶4, 6, 7.¹⁰

Because the Unreachable Claimants were given notice and an opportunity to participate in the Plan, granting the Receiver leave to disallow their claims now would not violate their due process rights under the U.S. Constitution.

¹⁰ Further, the Order Approving Plan and the Order Implementing Plan were posted on the Receivership website shortly after they were entered. Declaration of Andrew M. Goforth, **Exhibit B** attached hereto (hereinafter the “Goforth Decl.”), at ¶4.

In addition to the notice and opportunity given to the Unreachable Claimants through the Plan approval process, all Potential Claimants with active addresses on file were given “notice in writing of a notional claim amount as calculated by the Receiver,” Order Implementing Plan, at 2, consistent with the notice procedures approved by the Court with respect to the Motion to Approve Plan. Goforth Decl., at ¶5. Furthermore -- and with the goal of reaching as many Potential Claimants as possible -- the Receiver and his staff went beyond these minimum notice-related actions and sought to identify Potential Claimants whose mail had been returned by the USPS, and thereafter with respect to Potential Claimants who were mailed interim distribution checks but who had not negotiated those checks with their depository institution by the expiration date of the check.¹¹ In this regard, the Receiver’s staff and engaged professionals undertook the following procedures:

- i. engaged Easy-Serve to conduct “skip traces” to identify contact information related to Potential Claimants with claims exceeding \$100,000 and for whom the Receiver had record of a previous address;
- ii. searched electronic mail and other records for any prior correspondence with the Potential Claimant;
- iii. referenced all other investor lists in separate offerings for possible contact information;
- iv. reviewed investor spreadsheet created by the SEC for possible contact information;
- v. searched Receivership records for subscription agreements for possible contact information; and
- vi. for claimants that are entities, searched Texas Secretary of State and internet search engines for contact information.

¹¹ If the Receiver had received returned mail without a forwarding address prior to issuing the interim distribution checks, he did not issue an interim distribution check to that Potential Claimant.

Goforth Decl., at ¶¶ 6 – 8. Although these efforts were not entirely futile, they yielded only limited positive results.

Notwithstanding the above-described efforts, there remain approximately 280 Unreachable Claimants. Goforth Decl., ¶ 9; Exhibit A. The effects of disallowing these claims would be material to the Potential Claimants that the Receiver has been able to locate. In this regard, a generic claimant with a \$100,000 claim held a *pro rata* share of all investor losses of 0.084% and received an interim distribution in the amount of \$8,400.¹² If all Unreachable Claimant claims are disallowed, that same claimant would hold a *pro rata* share of approximately 0.1097%, which would have increased their interim distribution amount by approximately \$2,570 to approximately \$10,970.¹³ The Receiver requests leave to disallow the claims of the Unreachable Claimants, in his sole discretion.

III. REQUESTED RELIEF

The Receiver requests that the Court authorize him, in his sole discretion, to disallow the claims of the Unreachable Claimants. The Receiver further asks the Court to order that the estates of the Receivership Entities be forever discharged from any indebtedness or liability to any and all Unreachable Claimants whose claims are disallowed by the Receiver.

¹² Approximately 50% of all Final Claim Amounts (459) fall between \$35,000 and \$135,000. The median Final Claim Amount is approximately \$71,000.

¹³ The increase attributed here to the interim distribution will be applied to the final distribution for all known Potential Claimants.

Dated: January 20, 2023

Respectfully submitted,

THE TAYLOR LAW OFFICES, PC

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COUNSEL FOR RECEIVER

CERTIFICATE OF CONFERENCE

I certify that I have conferred with counsel for Plaintiff Securities and Exchange Commission, which is not opposed to the relief requested herein.

 /s/ Andrew M. Goforth
Andrew M. Goforth

CERTIFICATE OF SERVICE

I certify that on January 20, 2023 I served the foregoing document pursuant to FED. R. CIV. P. 5(b)(2)(E) by filing it through the Court's CM/ECF filing system.

 /s/ Andrew M. Goforth
Andrew M. Goforth

Claim No.	Name	Name
5	Phillip Colin Kirkegaard Roth IRA Advanta IRA custodian	
13	Michael Gunderson	
18	Rangoon Group	c/o Stephen Lai
46	Kyle Hoggatt	
86	Michael and Soheila Degieux	
99	Cynthia Woodham and Asset Preservation as pass Thru for Cynthia Woodham	
118	Advanta Trust LLC FBO Jill Lauren	
148	AdvantaIRA/MidlandIRA FBO Barbara Levich	
149	Fikis Properties LLC	
157	Kussmaul Brothers I LLC (Members: Ryan and Seth)	c/o Seth Kussmaul
182	Clifford L Ratza	
198	Orville Wojahn	
214	BIALYKAMIN INVESTMENTS LTD	c/o Stefan Konasiewicz
238	Samuel Quaison	
275	Ponderosa Homes LLC	c/o Andrew Balistreri
281	Kay Sartor	
292	Royce Don Allen	
320	David Nusz	
324	Jill Mattson	
339	Eileen Tufaro	
364	Linda Nelson	
374	Bloomington Associates LP c/o Lori Boisclair	
396	Roy Maneideo	
427	Advanta IRA fbo David Trent	
1005	Ghauri K Ahmer	
1017	Samuel Ampadu	
1018	Allen Jr Anderson	
1019	H Allen Anderson	
1020	Ruben Arias	
1023	Gary Ashmore	
1025	BAB Payment Co	
1028	Richard & Elizabeth Bauder	
1029	John E & Madonna R Beal	
1038	Black Forest Group	
1039	Kulin M Boda	
1040	Body Back Company	
1042	George & Lorraine Boice	
1043	Nedrana Boutte	
1048	Brothers Oil Company	
1049	Philip Brothers	
1050	Madeline & Martens Brouet	
1052	Randal Brown	
1053	Bui-Nguyen & Diana Huong	
1059	Jeanne Campbell	
1060	Kristopher & Kristi Campbell	
1062	Mark & Gwenda Carlson	
1066	Central Arkansas Qualified Intermediary	
1068	Gary & Deborah Chapman	
1075	Patrick Christman	
1076	Cider Royalties LLC	
1081	Computer Management Services Inc	
1082	Concept Solutions Inc	
1086	Michael & Connie Cummings	

1088	Daniel & Norma Currie	
1091	Olusesan Daniels	
1092	Dash Food Mart	
1093	UG & Patricia Daughtridge	
1095	David Davidson	
1097	Fred Davis	
1103	Gary & Mary Dewitt	
1104	Diamondback Oil & Gas Buffalo Run	
1105	Jewel Stoneman Dick	
1109	Doll Properties LLC	
1110	TW Doll	
1117	Terry & Linda Edmondson	
1121	Steve England	
1122	Wilbur & Kathy Epp	
1125	Todd Eskra	
1126	Exchange Specialists Inc	
1127	Fame PF LLC	
1129	Amy Jo Farrington	
1131	Edrick Ferguson	
1133	Jean-Pierre Ferrando	
1139	Fortune Group	
1140	Fountain Gates Investment Group	c/o Oladipo Aderiyi
1142	Ella Frumkin	
1143	Fulman Investments LLC	c/o Peter Juiris
1148	William Jr George	
1149	Harold & Susan Gerecht	
1151	Merle Ginsberg	
1152	Jerome Ginsburg	
1154	Arnold Gleit	
1155	Randy Glenne	
1158	Thomas Gorrie	
1159	Grace & Charm Investment Properties LLC	
1161	Donald Grantham	
1165	David & Christin Gregory	
1168	Gary & Virginia Gullo	
1169	James Jr Gullo	
1172	Robert & Kathleen Haldeman	
1173	Halek - TEI Operating Account	
1174	Alan Hampton	
1175	Tom L & Kay Handy	
1178	Alan & Joyce Hauser	
1182	Brandon Haynes	
1185	Health Way Pharmacy Inc	
1186	Heart of the Villa	
1187	Thomas Heckenberg	
1195	Hernandez Living Trust	c/o Drew Hernandez
1202	Hipkins Family Trust	
1205	Hofhine, Mike D	
1208	Howard, Louis M	
1209	Hoyle, Robert Mark	
1213	Hug, Steven & Mary	
1218	Jackson LLC	c/o Caitlyn Jackson
1221	Sandeep Jain	
1223	JBW Properties LLC	

1229	Lei & Qing Shao Jin	
1230	Johnson, Jeffery & Heather	
1232	Robert & Pamela Johnson	
1235	Mike Jones	
1236	Jones, Monty	
1244	Odis & Theola Kerbow	
1246	Klinchuch, John F	
1247	Knapp, James	
1251	Kolisetty, Pramila & Sapan Polepalle	
1252	Kolkey, Dean & Joan	
1254	Kremer, Joseph & Melissa	
1256	Kuhfus, Jon & Paula	
1259	James & Sarah Lang	
1262	Lawerence, Peter	
1267	Lindley, Joe	
1270	Lipe, Steele	
1271	Lloyd, Michael & Travis	
1275	Edwin Ludvik	
1276	Luekenga, Nick & Michelle	
1278	Gerald & Phyllis Lundeen	
1280	Suresh & Naga P Madireddy	
1282	Marcombe, Gery	
1283	Market Value Investments LLC	
1284	Martinez, Heather	
1288	Mark Scott McCollister	
1292	Angus P & Linda E McIntosh	
1294	McMichael, Robert & Mandy	
1295	Larry McMillin	
1296	Jason McShan	
1298	Robert A Melnick & Cynthia S Brenman	
1299	Mesa Lake LLC	
1303	Money Pro LLC	
1304	Norman Montanye	
1306	Mordell Energy LLC	
1307	Edward & Winifred Morenz	
1308	Moro, Stefano	
1313	Alvin Mullet Valley Homes LLC	c/o Alvin Mullet
1316	Nadeau, Thomas & Anne	
1317	John Nambu	
1319	Thomas & Shiney Nattakom	
1321	Neiber, Chris	
1325	Nelson Oil LLC	c/o L Nelson
1328	Neuman, Robert	
1331	Nichols Enterprises Inc	
1337	O'Leary, James	
1339	Pedro & Erica Ortiz	
1340	Tessa Osborne	
1341	Otto, Fred	
1344	Robert Paglec	
1346	Palmer, Ronald & Betty	
1351	Patel, Annkur & Sunita	
1352	Atool K & Amita A Patel	
1358	Peer, Keith K	
1362	Randall Jr Peterson	

1365	Phillip, Lester	
1367	Pipek, Gary & Karen	
1369	Poonawala, Aliasgar I & Sakina Khambaty	
1370	Michael Porter	
1371	TD Porter	
1372	Porter, Thomas & Patricia	
1373	Prado, Antonio & Lourdes	
1374	Prakash, Madhulika	
1375	Premium Finance Solutions Inc	
1378	Price, Floyd & Marilyn	
1381	William & Debra Purdon	
1383	Lambert Quartey	
1384	Rai, Shyam	
1386	Rapio Valley Land Company	
1388	Raymond, David	
1389	RBC Capital Markets	
1391	Resseguie, Robert	
1392	Retirement CFO LLC	
1393	Rhines, Howard & Juanita	
1394	Raymond & Joan Rhodes	
1395	Richardson, Thomas Jr	
1396	Richmond, Jason	
1398	Risman, Dandy & Joyce	
1399	Ritter, T & M	
1401	Rock Capital LLC	
1404	Rosser, Richard & Lisa	
1407	Roy, Vikas & Somya Revocable Trust	
1409	Daniel & Shannon Rundio	
1410	Samuel, Matthew	
1411	Ajit Fathailal Sancheti	
1414	Sanford, Margaret	
1415	Sanford, Richard	
1419	Vincent Scalese	
1420	Scheriff, Matthew	
1421	Schindler, Kyle & Megan	
1422	Harriet & Charles Schnepf	
1423	Schoepf, George	
1424	Schreiber Properties	
1430	Shah, Parag	
1431	Shanker, Gyan & Vandana	
1434	Yang Shi	
1436	Shukry, Mohanad & Annette	
1437	Simon, Jeffrey & James	
1440	Smith, John R	
1443	Sorenson, Terry	
1445	Sparrer, Henry & Geraldine	
1451	Thomas Stanley	
1453	Starr, Janet	
1456	Steadicam Hawaii LLC	
1458	Steve Danielson LLC	
1459	John Stevenson	
1461	Steven & Sheila Stewart	
1462	Stone Creek Energy Partners	c/o David Fitzell
1463	Thomas & Hellen Stone	

1467	Structural Concrete & Design Inc	
1468	Strum, Kenneth	
1469	Struttman, Hilarius	
1470	Sullivan, John	
1472	Thomas & Wei Shi Sun	
1473	Suphattanak, Naphat & Darin Jaturapatporn	
1474	Richard Tabaka	
1476	Talla, Samata	
1481	Taylor, Brian & Deborah	
1487	Gillean Terry	
1492	Logen & Dilini Thiran	
1494	Thomas, Dwayne A	
1501	Gilbert & Amanda Travis	
1507	NR Uppalapati	
1508	Upright, Helen	
1509	Upright, Randall & Karen	
1515	Srinivas Vangala	
1516	Veldhuizen, Henry & Alma	
1517	Vernon Investments	c/o Paul Wells
1520	Vreeland, James & Susie	
1521	Bret & Paula Wacker	
1523	Walters, Jerry	
1527	Wealth Management	
1539	Western Reader's Service	
1541	White, James & Meta	
1543	Jimmy & Jewell Jacque White Reynolds Investments	
1547	Curtis Wilke	
1548	Williams, Andrew D & Johnette J	
1551	Nathan W & Renee E Williams	
1561	Frank & Nelda Young	
1562	Yao Tony & Joy Huang Zhu	
1564	ZP Enterprises LLC	
2004	Richard Anderson	
2018	Blue Shore Trust	
2030	Collins, Dennis	
2049	Richard Dulany & Linda Rubey	
2050	Leland Durst IRA	
2055	Fehlman, Richard & Janet Podojil	
2059	Gerard Enterprises LP	
2072	Hajdari, Zaim	
2095	Kurran Investment Group LLC	
2102	Lindley, Lou Ann	
2103	Low, Laura	
2122	Parke, John	
2146	Frank Shaw	
2151	Mike Smith	
2153	Kenneth W. Sommerfeld Trust dtd 9/17/99	
2155	Spaletto Enterprises Inc	
2158	William Sweeney	
2179	Woolley, Micheline	
11B	Christine Williams Trust	
11C	Reese Williams Trust	
1232B	Robert & Pamela Johnson	
133B	Judy & Lee Culbertson	

1549B	Erin Williams Trust	
1549C	Marisa Williams Trust	
279A	Robert Wells Self-Directed Traditional IRA	
279B	Robert Wells	
314B	Entrust Freedom IRA FBO Steven Skurski	
348A	A.R.I. & C. Inc	
41D	Rick Hanson	
81B	Michael Schuman Holdings LLC	
N1	Daniel White IRA	
N7	Rajesh Patel IRA	
N9	Craig Richardson IRA	

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DALLAS DIVISION

SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
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Plaintiff,	§	
	§	Civil Action No. 3:16-CV-1735-D
vs.	§	
	§	
CHRISTOPHER A. FAULKNER, et al.,	§	
	§	
Defendants.	§	

DECLARATION OF ANDREW M. GOFORTH

I, Andrew M. Goforth, do hereby declare under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the following is true and correct, that I have personal knowledge of the matters stated herein, and that, if called as a witness, I could and would testify competently about these matters.

1. I am counsel for the Court-appointed Receiver in the above-styled action. I make this declaration in support of the Receiver’s January 20, 2023 Motion for Leave to Disallow Claims of Certain Claimants That Cannot be Located (“Motion”).

2. I, and staff and engaged professionals of the Receiver under my supervision and direction, have sought to identify and locate Potential Claimants¹ to the Receivership. After our best efforts as described below, we have not been able to locate the Unreachable Claimants.

3. The efforts through which the Receiver and his staff and engaged professionals assembled a service list with respect to the Motion to Approve Plan are detailed at length in the

¹ Capitalized terms not defined herein have the same meaning given to them in the Motion.

Certificate of Service of Notice of Plan. *See* ECF No. 440 (“Certificate of Service”), at ¶3. As stated therein, *id.*, at ¶4, the Receiver served the Notice of Plan by mail on 1,150 individuals and entities identified in ¶3 therein for which addresses were available. To the extent any of the mailed Notices of Plan were returned to the Receiver with a forwarding address, the notice was then mailed to that forwarding address. Over 100 of these mailings were returned to the Receiver without a forwarding address.

4. The Receiver’s staff posted the Order Approving Plan and the Order Implementing Plan on the Receivership website shortly after they were entered by the Court in or about May 2020.

5. With respect to Potential Claimants for whom previous mailings were not returned by the USPS, and/or which were returned by the USPS with a forwarding address, written notice of their notional claim amount as calculated by the Receiver was mailed to them, consistent with the notice procedures approved by the Court with respect to the Motion to Approve Plan.

6. With respect to Potential Claimants holding claims exceeding \$100,000 and that (1) the Receiver had been unable to locate, and (2) for whom the Receiver had a previous mailing address, the Receiver engaged Easy-Serve to conduct “skip traces” to help identify contact information.

7. With respect to Potential Claimants for whom previous mailings were not returned by the USPS, and/or which were returned by the USPS with a forwarding address, the Receiver mailed interim distribution checks to these Potential Claimants’ last known addresses. Certain of these interim distribution checks were returned to the Receiver by the USPS with forwarding addresses and such checks were reissued to those forwarding addresses. Certain of these interim distribution checks were returned to the Receiver by the USPS without forwarding addresses.

Other interim distribution checks were neither returned to the Receiver by the USPS nor negotiated with a Potential Claimant's depository institution by the expiration date of the check.

8. For those Potential Claimants (1) whose Notices of Plan were returned to the Receiver without a forwarding address, whose notional claim amount letters were returned to the Receiver without a forwarding address, and / or whose interim distribution checks were returned to the Receiver without a forwarding address; or (2) whose interim distribution checks were not negotiated with their depository institution by the expiration date of the check, the Receiver's staff and engaged professionals undertook the following actions:

- a. searched electronic mail and other records for any prior correspondence with the Potential Claimant;
- b. referenced all other investor lists in separate offerings for possible contact information;
- c. reviewed investor spreadsheet created by the SEC for possible contact information;
- d. searched Receivership records for subscription agreements for possible contact information; and
- e. for claimants that are entities, searched Texas Secretary of State and internet search engines for contact information.

9. Notwithstanding the above-described efforts, there remain approximately 159 Potential Claimants with missing or bad addresses, whose claims total approximately \$9,000,000. Additionally, the Receiver mailed interim distribution checks totaling approximately \$1,550,000 to approximately 125 Potential Claimants (representing claims of approximately \$18,500,000) which checks have neither been returned by the USPS nor negotiated by the recipient as of the filing of this Motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 2023.

/s/ Andrew M. Goforth
Andrew M. Goforth

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	Civil Action No. 3:16-CV-1735-D
	§	
CHRISTOPHER A. FAULKNER, et al.,	§	
<i>Defendants.</i>	§	

ORDER

Before the Court is the January 20, 2023 Motion for Leave to Disallow Claims of Certain Claimants That Cannot be Located (“Motion”) filed by Court-appointed temporary receiver Thomas L. Taylor III (“Receiver”). Through the Motion, the Receiver seeks leave to disallow, in his sole discretion, the claims of the Unreachable Claimants (listed in Exhibit A hereto).

The Court has considered the Motion, and all opposition, responses or objections thereto, if any; and has determined that the Unreachable Claimants were given proper notice of the Receiver’s Motion to Approve Proposed Plan of Distribution and to Establish Procedures to Determine and Disallow Final Claims [ECF Nos. 406, 407] (“Motion to Approve Plan”) and had the opportunity to object and to be heard with respect to the Plan and the Claims Confirmation Process (as defined therein) or otherwise identify themselves to the Receiver and provide him with accurate, current contact information in order to participate in the Claims Confirmation Process; and has determined that the Motion is fully supported by the entire record in these proceedings to date, all evidence presented to the Court and the arguments of counsel. It is therefore

ORDERED that the Motion is **GRANTED** in full. It is further

ORDERED that the Receiver, in his sole discretion, may disallow the claims of the Unreachable Claimants against the estates of the Receivership Entities. It is further

ORDERED that the estates of the Receivership Entities shall be forever discharged from any indebtedness or liability to any and all Unreachable Claimants whose claims are disallowed by the Receiver.

Signed at Dallas, Texas this _____ day of _____, 2023.

SIDNEY A. FITZWATER
SENIOR JUDGE

Claim No.	Name	Name
5	Phillip Colin Kirkegaard Roth IRA Advanta IRA custodian	
13	Michael Gunderson	
18	Rangoon Group	c/o Stephen Lai
46	Kyle Hoggatt	
86	Michael and Soheila Degieux	
99	Cynthia Woodham and Asset Preservation as pass Thru for Cynthia Woodham	
118	Advanta Trust LLC FBO Jill Lauren	
148	AdvantaIRA/MidlandIRA FBO Barbara Levich	
149	Fikis Properties LLC	
157	Kussmaul Brothers I LLC (Members: Ryan and Seth)	c/o Seth Kussmaul
182	Clifford L Ratza	
198	Orville Wojahn	
214	BIALYKAMIN INVESTMENTS LTD	c/o Stefan Konasiewicz
238	Samuel Quaison	
275	Ponderosa Homes LLC	c/o Andrew Balistreri
281	Kay Sartor	
292	Royce Don Allen	
320	David Nusz	
324	Jill Mattson	
339	Eileen Tufaro	
364	Linda Nelson	
374	Bloomington Associates LP c/o Lori Boisclair	
396	Roy Maneideo	
427	Advanta IRA fbo David Trent	
1005	Ghauri K Ahmer	
1017	Samuel Ampadu	
1018	Allen Jr Anderson	
1019	H Allen Anderson	
1020	Ruben Arias	
1023	Gary Ashmore	
1025	BAB Payment Co	
1028	Richard & Elizabeth Bauder	
1029	John E & Madonna R Beal	
1038	Black Forest Group	
1039	Kulin M Boda	
1040	Body Back Company	
1042	George & Lorraine Boice	
1043	Nedrana Boutte	
1048	Brothers Oil Company	
1049	Philip Brothers	
1050	Madeline & Martens Brouet	
1052	Randal Brown	
1053	Bui-Nguyen & Diana Huong	
1059	Jeanne Campbell	
1060	Kristopher & Kristi Campbell	
1062	Mark & Gwenda Carlson	
1066	Central Arkansas Qualified Intermediary	
1068	Gary & Deborah Chapman	
1075	Patrick Christman	
1076	Cider Royalties LLC	
1081	Computer Management Services Inc	
1082	Concept Solutions Inc	
1086	Michael & Connie Cummings	

1088	Daniel & Norma Currie	
1091	Olusesan Daniels	
1092	Dash Food Mart	
1093	UG & Patricia Daughtridge	
1095	David Davidson	
1097	Fred Davis	
1103	Gary & Mary Dewitt	
1104	Diamondback Oil & Gas Buffalo Run	
1105	Jewel Stoneman Dick	
1109	Doll Properties LLC	
1110	TW Doll	
1117	Terry & Linda Edmondson	
1121	Steve England	
1122	Wilbur & Kathy Epp	
1125	Todd Eskra	
1126	Exchange Specialists Inc	
1127	Fame PF LLC	
1129	Amy Jo Farrington	
1131	Edrick Ferguson	
1133	Jean-Pierre Ferrando	
1139	Fortune Group	
1140	Fountain Gates Investment Group	c/o Oladipo Aderiyi
1142	Ella Frumkin	
1143	Fulman Investments LLC	c/o Peter Juiris
1148	William Jr George	
1149	Harold & Susan Gerecht	
1151	Merle Ginsberg	
1152	Jerome Ginsburg	
1154	Arnold Gleit	
1155	Randy Glenne	
1158	Thomas Gorrie	
1159	Grace & Charm Investment Properties LLC	
1161	Donald Grantham	
1165	David & Christin Gregory	
1168	Gary & Virginia Gullo	
1169	James Jr Gullo	
1172	Robert & Kathleen Haldeman	
1173	Halek - TEI Operating Account	
1174	Alan Hampton	
1175	Tom L & Kay Handy	
1178	Alan & Joyce Hauser	
1182	Brandon Haynes	
1185	Health Way Pharmacy Inc	
1186	Heart of the Villa	
1187	Thomas Heckenberg	
1195	Hernandez Living Trust	c/o Drew Hernandez
1202	Hipkins Family Trust	
1205	Hofhine, Mike D	
1208	Howard, Louis M	
1209	Hoyle, Robert Mark	
1213	Hug, Steven & Mary	
1218	Jackson LLC	c/o Caitlyn Jackson
1221	Sandeep Jain	
1223	JBW Properties LLC	

1229	Lei & Qing Shao Jin	
1230	Johnson, Jeffery & Heather	
1232	Robert & Pamela Johnson	
1235	Mike Jones	
1236	Jones, Monty	
1244	Odis & Theola Kerbow	
1246	Klinchuch, John F	
1247	Knapp, James	
1251	Kolisetty, Pramila & Sapan Polepalle	
1252	Kolkey, Dean & Joan	
1254	Kremer, Joseph & Melissa	
1256	Kuhfus, Jon & Paula	
1259	James & Sarah Lang	
1262	Lawerence, Peter	
1267	Lindley, Joe	
1270	Lipe, Steele	
1271	Lloyd, Michael & Travis	
1275	Edwin Ludvik	
1276	Luekenga, Nick & Michelle	
1278	Gerald & Phyllis Lundeen	
1280	Suresh & Naga P Madireddy	
1282	Marcombe, Gery	
1283	Market Value Investments LLC	
1284	Martinez, Heather	
1288	Mark Scott McCollister	
1292	Angus P & Linda E McIntosh	
1294	McMichael, Robert & Mandy	
1295	Larry McMillin	
1296	Jason McShan	
1298	Robert A Melnick & Cynthia S Brenman	
1299	Mesa Lake LLC	
1303	Money Pro LLC	
1304	Norman Montanye	
1306	Mordell Energy LLC	
1307	Edward & Winifred Morenz	
1308	Moro, Stefano	
1313	Alvin Mullet Valley Homes LLC	c/o Alvin Mullet
1316	Nadeau, Thomas & Anne	
1317	John Nambu	
1319	Thomas & Shiney Nattakom	
1321	Neiber, Chris	
1325	Nelson Oil LLC	c/o L Nelson
1328	Neuman, Robert	
1331	Nichols Enterprises Inc	
1337	O'Leary, James	
1339	Pedro & Erica Ortiz	
1340	Tessa Osborne	
1341	Otto, Fred	
1344	Robert Paglec	
1346	Palmer, Ronald & Betty	
1351	Patel, Annkur & Sunita	
1352	Atool K & Amita A Patel	
1358	Peer, Keith K	
1362	Randall Jr Peterson	

1365	Phillip, Lester	
1367	Pipek, Gary & Karen	
1369	Poonawala, Aliasgar I & Sakina Khambaty	
1370	Michael Porter	
1371	TD Porter	
1372	Porter, Thomas & Patricia	
1373	Prado, Antonio & Lourdes	
1374	Prakash, Madhulika	
1375	Premium Finance Solutions Inc	
1378	Price, Floyd & Marilyn	
1381	William & Debra Purdon	
1383	Lambert Quartey	
1384	Rai, Shyam	
1386	Rapio Valley Land Company	
1388	Raymond, David	
1389	RBC Capital Markets	
1391	Resseguie, Robert	
1392	Retirement CFO LLC	
1393	Rhines, Howard & Juanita	
1394	Raymond & Joan Rhodes	
1395	Richardson, Thomas Jr	
1396	Richmond, Jason	
1398	Risman, Dandy & Joyce	
1399	Ritter, T & M	
1401	Rock Capital LLC	
1404	Rosser, Richard & Lisa	
1407	Roy, Vikas & Somya Revocable Trust	
1409	Daniel & Shannon Rundio	
1410	Samuel, Matthew	
1411	Ajit Fathailal Sancheti	
1414	Sanford, Margaret	
1415	Sanford, Richard	
1419	Vincent Scalese	
1420	Scheriff, Matthew	
1421	Schindler, Kyle & Megan	
1422	Harriet & Charles Schnepf	
1423	Schoepf, George	
1424	Schreiber Properties	
1430	Shah, Parag	
1431	Shanker, Gyan & Vandana	
1434	Yang Shi	
1436	Shukry, Mohanad & Annette	
1437	Simon, Jeffrey & James	
1440	Smith, John R	
1443	Sorenson, Terry	
1445	Sparrer, Henry & Geraldine	
1451	Thomas Stanley	
1453	Starr, Janet	
1456	Steadicam Hawaii LLC	
1458	Steve Danielson LLC	
1459	John Stevenson	
1461	Steven & Sheila Stewart	
1462	Stone Creek Energy Partners	c/o David Fitzell
1463	Thomas & Hellen Stone	

1467	Structural Concrete & Design Inc	
1468	Strum, Kenneth	
1469	Struttman, Hilarius	
1470	Sullivan, John	
1472	Thomas & Wei Shi Sun	
1473	Suphattanak, Naphat & Darin Jaturapatporn	
1474	Richard Tabaka	
1476	Talla, Samata	
1481	Taylor, Brian & Deborah	
1487	Gillean Terry	
1492	Logen & Dilini Thiran	
1494	Thomas, Dwayne A	
1501	Gilbert & Amanda Travis	
1507	NR Uppalapati	
1508	Upright, Helen	
1509	Upright, Randall & Karen	
1515	Srinivas Vangala	
1516	Veldhuizen, Henry & Alma	
1517	Vernon Investments	c/o Paul Wells
1520	Vreeland, James & Susie	
1521	Bret & Paula Wacker	
1523	Walters, Jerry	
1527	Wealth Management	
1539	Western Reader's Service	
1541	White, James & Meta	
1543	Jimmy & Jewell Jacque White Reynolds Investments	
1547	Curtis Wilke	
1548	Williams, Andrew D & Johnette J	
1551	Nathan W & Renee E Williams	
1561	Frank & Nelda Young	
1562	Yao Tony & Joy Huang Zhu	
1564	ZP Enterprises LLC	
2004	Richard Anderson	
2018	Blue Shore Trust	
2030	Collins, Dennis	
2049	Richard Dulany & Linda Rubey	
2050	Leland Durst IRA	
2055	Fehlman, Richard & Janet Podojil	
2059	Gerard Enterprises LP	
2072	Hajdari, Zaim	
2095	Kurran Investment Group LLC	
2102	Lindley, Lou Ann	
2103	Low, Laura	
2122	Parke, John	
2146	Frank Shaw	
2151	Mike Smith	
2153	Kenneth W. Sommerfeld Trust dtd 9/17/99	
2155	Spaletto Enterprises Inc	
2158	William Sweeney	
2179	Woolley, Micheline	
11B	Christine Williams Trust	
11C	Reese Williams Trust	
1232B	Robert & Pamela Johnson	
133B	Judy & Lee Culbertson	

1549B	Erin Williams Trust	
1549C	Marisa Williams Trust	
279A	Robert Wells Self-Directed Traditional IRA	
279B	Robert Wells	
314B	Entrust Freedom IRA FBO Steven Skurski	
348A	A.R.I. & C. Inc	
41D	Rick Hanson	
81B	Michael Schuman Holdings LLC	
N1	Daniel White IRA	
N7	Rajesh Patel IRA	
N9	Craig Richardson IRA	