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February 20, 2009

**Re: Securities and Exchange Commission v. Mercer Capital, Inc., et al.**  
**Case No.: 06-81080-CIV-JOHNSON**

**Your Claim # is \_\_\_\_\_**

Dear Mercer and/or Tri-State Claimant:

I serve as counsel to the Receiver, Daniel S. Newman. I am writing to provide you with important information.

**Legal documents are enclosed.** Enclosed are two legal documents I have just filed with the Court. The first is entitled "Receiver's Motion to (i) Establish Procedure by Which to Object to Disputed Claims; (ii) Approve Interim Distribution to Holders of Approved Claims; and (iii) Establish Reserves for Disputed Claims" (hereafter the "Motion"). I have also enclosed a proposed Order granting the Motion that I have provided Judge Linnea R. Johnson for her consideration. In this letter, I summarize the relief sought by the Motion. After reading this letter, please review the enclosed Motion and proposed Order carefully, as they may determine whether and how much you will be paid from the available funds from the receivership estate of Mercer Capital, Inc. and Tri-State Energy Group (collectively "Mercer Tri-State")

**All Proofs of Claim have been reviewed by the Receiver.** We are in receipt of your Proof of Claim in which you state you are owed money by Mercer Tri-State. A total of 128 Proofs of Claim were filed: 126 from investors and 2 from trade creditors. Those claims total slightly more than \$3.3 million. The Receiver is presently in possession of approximately 1,100,000.00 of Mercer Tri-State funds. Thus, the Receiver is not in the position at this time, and it is unlikely he will ever have sufficient funds to completely reimburse each of you on your claims.

The Receiver's attorneys have reviewed each Proof of Claim and have compared them to documentation provided by each claimant and receivership records in the Receiver's possession.

In this manner, the Receiver has been able to confirm the validity of nearly all claims, which are referred to in the Motion as "Approved Claims." There are several claims, however, that the Receiver cannot approve at this time and those claims are referred to in the Motion as "Disputed Claims."

To determine whether your claim is Approved or Disputed, please refer to your **Claim Number** that is noted at the beginning of this letter and then look at the Schedule of Claims, which is attached to the Motion as Exhibit "A." That document lists every claim (identified by a claim number) filed with the Receiver and whether the claim is Approved or Disputed.

The Schedule of Claims also reflects any "fake profits" or partial repayments of principal made by Mercer Tri-State to investors before this lawsuit was filed. The Receiver has reduced the amounts invested by these payments to come up with an "Adjusted Claim." Similarly, the Adjusted Claim reported on the Schedule of Claims for each trade creditor does not include any interest accrued after the commencement of this lawsuit.

**"Approved Claims."** As you will see in the Motion, the Receiver has asked the Court's permission to make an interim distribution of 15% of the adjusted amount of each Approved Claim to the holders of those claims, and to do so no later than sixty (60) days after entry of the Court's order approving the Motion. The proposed payment amount for each Approved Claim is listed in the final column of the Schedule of Claims. If your claim is an "Approved Claim," this is the amount of money that we have asked the Court for permission to send to you at this time. Please understand that this payment may not be the final payment you will receive from the Receiver. Rather, we believe it is likely that funds will remain in the receivership account at the conclusion of this litigation that will be divided among investors and creditors, as approved by the Court.

**"Disputed Claims."** If your claim is identified as a "Disputed Claim" on the Schedule of Claims, this is because the Receiver is unable to verify your claim as stated on your Proof of Claim, or because the Receiver has objections or counterclaims to your claim. In his Motion, the Receiver has proposed to the Court that you not be paid on your claim at this time. Rather, the Receiver has suggested a process by which these Disputed Claims can be resolved. As part of that process, the Receiver must file his objections and, should he wish, his counterclaims to the Disputed Claims by **April 8, 2009**. You will then have twenty (20) days to respond in writing to the objections and/or counterclaims. Your response will have to be mailed to the Receiver and the other parties to this lawsuit and filed with the Court. Under the Receiver's proposal, you will waive your claim if you do not timely respond to the Receiver's objections. Also, failure to timely respond to a counterclaim by the Receiver may result in the entry of a judgment against you.

To protect the persons who filed Disputed Claims, the Receiver has also proposed to the Court that the Receiver set aside the money that would have been paid on those claims if they were not disputed. The Receiver further proposes that it hold those funds in reserve until the Court has had an opportunity to resolve those claims. The monies the Receiver proposes to hold in reserve are identified on the final column of the Schedule of Claims.

**You may file a Response to the Receiver's Motion.** Before this Court enters an Order on the Receiver's Motion, you have the opportunity to file a Response to the Motion, stating any objections you may have to the Motion. You are under no obligation to file a Response; however, you may do so if you believe that the relief sought by the Receiver in his Motion is somehow unfair to you.

If you do wish to file a Response, it must be postmarked no later than **March 23, 2009**. The first page of your Response must indicate at the top the style of the action (that is, the parties involved in the action), the court, and the case number. The first page of the enclosed Motion sets out this information. The original Response and one copy must be sent to the following address: Clerk of Courts, United States District Court, 301 North Miami Avenue, Miami, Florida 33128, and a copy of the Response must be served on all counsel of record. Their names and addresses can be located on the Certificate of Service at the end of the enclosed Motion.

This letter, the Motion, and the proposed Order will be posted on the Receiver's website: [www.mercertristate-receivership.com](http://www.mercertristate-receivership.com), as will any order issued by the Court when it rules on the Receiver's Motion.

We hope that this letter answers any questions you may have about the Motion and proposed Order. In the event you do have a question about these papers, please remember that this law firm represents the Receiver and does not represent claimants. For this reason, we are not able to provide you with any legal advice. If you have any legal questions regarding this letter, the Motion, or the proposed Order, you may wish to consult an attorney of your choosing.

Very truly yours,



David B. Rosenberg  
Counsel to the Receiver

DBR/bf