

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 06-81080-CIV-JOHNSON**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

MERCER CAPITAL, INC., et al.,

Defendants.

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**ORDER (i) ESTABLISHING PROCEDURE BY WHICH TO OBJECT TO DISPUTED CLAIMS; (ii) APPROVING INTERIM DISTRIBUTION TO HOLDERS OF APPROVED CLAIMS; AND (iii) ESTABLISHING RESERVES FOR DISPUTED CLAIMS**

**THIS CAUSE** is before court on Receiver's Motion to (i) Establish Procedure By Which To Object To Disputed Claims; (ii) Approve An Interim Payment To Holders Of Approved Claims; and (iii) Establish Reserves For Disputed Claims (DE 147) which is now ripe for adjudication. The court having considered the Motion and being otherwise fully advised in the premises, it is hereby

**ORDERED AND ADJUDGED** as follows:

1. The Receiver's Motion (DE 147) is **GRANTED**;
2. The Receiver is directed to make an Interim Distribution as soon as practicable, but no later than sixty (60) days from the date of this Order, to holders of each Approved Claim in the amounts set forth on the Schedule of Claims attached as Exhibit A to the Receiver's Motion ("Schedule of Claims");
3. The Receiver is directed to hold in reserve the Interim Distribution of each

Disputed Claim, as set forth in the Schedule of Claims, until the allowance or disallowance of such Disputed Claims by subsequent order of this court;

4. The Receiver shall prepare and file objections and/or counterclaims, or request an extension of time to file any such objections and/or counterclaims should additional information be needed, no later than April 8, 2009;

5. The Receiver shall serve his objections and/or counterclaims, on the holders of Disputed Claims at the address provided on each Proof of Claim Form by certified first class mail;

6. The holders of Disputed Claims to which the Receiver has objected and/or counterclaimed, will have twenty (20) days from the date of service of the objection and/or counterclaims within which to respond in writing to the Receiver's objections and/or counterclaims. Such response shall be served on the Receiver at his office, care of David Rosemberg, Esq., Broad and Cassel, 2 South Biscayne Boulevard, 21<sup>st</sup> Floor, Miami, FL 33131, and filed with this court. If a holder of a Disputed Claim does not respond to the Receiver's objections within the time provided, the Receiver's objections will be deemed sustained with prejudice and those Disputed Claim(s) will be deemed irrevocably waived. If the holder of a Disputed Claim does not respond to a counterclaim filed by the Receiver as required in this paragraph, the Receiver may move this court for entry of a default judgment;

7. Twenty (20) days after the holder of a Disputed Claim has served its response on the Receiver, the claimant and the Receiver shall submit to this court a proposed scheduling order for discovery and/or resolution of the claims;

8. By filing a Proof of Claim Form, the holders of all Approved and Disputed

Claims have submitted to the jurisdiction of this court. Any necessary discovery regarding the Disputed Claims and the Receiver's objections and/or counterclaims thereto will be conducted and resolved in the Southern District of Florida. All depositions, other than telephone depositions agreed to by both parties, shall be conducted at the Receiver's office: Broad and Cassel, 2 South Biscayne Boulevard, 21<sup>st</sup> Floor, Miami, FL 33131;

9. Nothing in this Order shall prevent the Receiver and the holders of Disputed Claims from attempting to reach settlement of Disputed Claims and any counterclaims filed by the Receiver. Any such settlement shall be submitted to this court for its approval;

10. The Receiver is directed to serve a copy of this Order upon all holders of Approved and Disputed Claims via U.S. Mail, and to post a copy of this Order upon its website [www.mercertristate-receivership.com](http://www.mercertristate-receivership.com).

**DONE and ORDERED** in Chambers at West Palm Beach, Florida, this 26<sup>th</sup> day of March, 2009.

  
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LINNEA R. JOHNSON  
UNITED STATES MAGISTRATE JUDGE

Copies to: All counsel of Record