

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 06-81080-CIV-MIDDLEBROOKS/JOHNSON

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

MERCER CAPITAL, INC., et al.,

Defendants.

**RECEIVER'S MOTION TO APPROVE INTERIM DISTRIBUTION
TO PREVIOUSLY DISPUTED CLAIMANTS AND NOTICE OF
MAILING INTERIM DISTRIBUTION TO APPROVED CLAIMANTS**

Court-Appointed Receiver, Daniel S. Newman ("Receiver"), by and through undersigned counsel, hereby files this Motion to Approve An Interim Distribution To Certain Previously Disputed Claimants. The Receiver also gives notice of mailing an interim distribution to the Approved Claimants¹, pursuant to this Court's March 26, 2009 Order [DE 148]. In Support of this motion, the Receiver states:

I. Claims That Are Supported Should Be Approved.

In this action, the Receiver was charged with distributing the assets of the Mercer and Tri-State entities for the benefit of investors and creditors. This responsibility included reviewing and reconciling claims filed against the Receivership and recommending to the Court which claims should be allowed, what amount each claim

¹ Approved Claimants" refers to those investors who filed a proof of claim with the Receiver in a timely fashion, in accordance with the provisions set forth in the Proof of Claim and this Court's Orders, and whose Claim has been determined by the Receiver as compensable.

BROAD and CASSEL

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should be allowed, and which claims should be disallowed. The Receiver has worked hard to audit the claims with an eye toward eliminating excessive and/or inequitable claims, to ensure investors with legitimate claims receive the maximum possible returns.

In doing so, the Receiver discovered that most Proofs of Claim could be reconciled with company records and/or other evidence provided by claimants, and thus most of the claims could be allowed. In some instances, however, the Receiver was unable to reconcile claims. The Receiver offered claimants opportunities to provide him with evidence that their claims were legitimate, and in most instances, they cooperated and provided additional information so that their claims could be reconciled.

Those claimants possessing previously disputed claims who have cooperated with the Receiver, and whose claims could thus be verified, are listed on Schedule "A" which is attached to this motion as Exhibit "A." The Receiver requests that the claimants identified on Schedule "A" be approved for an interim distribution in an amount set forth in the Schedule.

II. Notice of Mailing.

The Receiver hereby gives notice that he has sent an interim distribution to all Approved Claimants pursuant to this Court's Order of March 26, 2009 [DE 148].

WHEREFORE, the Receiver respectfully requests that this Court authorize the Receiver to make an interim distribution to each claimant as set forth on Schedule A and grant such other relief as is just and proper.

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Respectfully submitted,

BROAD AND CASSEL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 16, 2009, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel or parties of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ David B. Rosemberg

DAVID B. ROSEMBERG

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SERVICE LIST

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SCHEDULE A

**Previously Disputed Claimants That
Should Be Approved**

Proof of Claim #	Adjusted Claim	Initial Distribution
45	\$ 39,200.00	\$5,897.22
50	\$9,784.00	\$1,471.90
78	\$10,000.00	\$1,504.39
83	\$10,000.00	\$1,504.39
84	\$14,700.00	\$2,211.46
98	\$5,000.00	\$752.20
104	\$5,150.00	\$774.76
111	\$10,475.00	\$1,575.85
119	\$11,500.00	\$1,730.05
121	\$4,600.00	\$692.02
115	\$10,000.00	\$1,504.39
128	\$ 82,950.00	12,478.93