

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 AGREED MOTION TO APPROVE
SECOND DISTRIBUTION TO APPROVED CLAIMANTS**

Court-Appointed Receiver, Daniel S. Newman ("Receiver") hereby files this Motion to Approve a Second Distribution to Approved Claimants. The Receiver is authorized to state that the Securities and Exchange Commission agrees to the relief sought in this Motion. In Support of this motion, the Receiver states:

The Receiver recently completed the sale of Defendant Tri-State Energy Group, LLC's ("Tri-State") interest in the South Wallace Minnelusa oil reservoir in Campbell County, Wyoming. The sale generated \$137,797.35 in proceeds for the benefit of the Receivership's defrauded investors. The Receiver is not aware of any additional assets subject to this Court's Orders in this matter and available for recovery.¹ Further, the Receiver is not aware of any other claimants who have properly asserted claims² that have not been or are not being addressed. While tax returns and other minor administrative tasks remain to be performed, the Receiver,

¹ On November 12, 2009, the Court entered Final Default Judgment against Defendant Robert Flickinger in the amount of \$381,351.54 plus interest [DE 18]. At present, the Receiver is not aware of assets of Mr. Flickinger to satisfy the judgment. To the extent proceeds are recovered, they will be used for distribution to the Receivership's defrauded investors.

² In accordance with the procedure and Order entered by the Court on March 26, 2009 [DE 148].

BROAD and CASSEL

One Biscayne Tower, 21st Floor 2 South Biscayne Blvd. Miami, Florida 33131-1811 305.373.9400

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with the consent of the SEC and the approval of this Court, will soon seek permission to wind down the Receivership.

In the meantime, after fully evaluating the Receivership Estate's remaining assets and potential sources of recovery, the Receiver has determined that a second distribution should be made to the defrauded investors pending the complete winding down of the Receivership Estate. Specifically, the Receiver proposes to make a second distribution in the amount of \$658,308.50 to all previously approved claimants, and in same manner as authorized by this Court's March 26, 2009 Order [DE 148] that authorized the Receiver to make a first interim distribution to approved claimants. A copy of the schedule setting forth the proposed distribution to approved claimants is attached as Exhibit A.

The Receivership Estate will maintain a reserve amount of cash sufficient to satisfy any outstanding known liabilities, payment of professional fees, amounts of any remaining disputed claimants and other contingencies associated with the winding down of the Receivership Estate. Upon final order to wind down the Receivership Estate, the Receiver will also seek permission to distribute any funds that remain from the reserve.

WHEREFORE, the Receiver respectfully requests that the Court grant him the authority to make a second distribution to all approved claimants of a pro-rata share of the amount of \$658,308.50, in the same manner as this Court's March 26, 2009 Order.

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Respectfully submitted,

BROAD AND CASSEL

Attorneys for Receiver

One Biscayne Tower, 21st Floor

2 South Biscayne Boulevard

Miami, Florida 33131

Tel: (305) 373-9400

Fax: (305) 373-9443

By: /s/ David B. Rosemberg

RHETT TRABAND, P.A.

Fla. Bar No.: 0028894

rtraband@broadandcassel.com

DAVID B. ROSEMBERG

Fla. Bar No.: 0582239

drosemberg@broadandcassel.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 29, 2010, 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

<p>Scott Andrew Masel, Esq. Andre Zamorano, Esq. Attorneys for Plaintiff SECURITIES AND EXCHANGE COMMISSION 801 Brickell Avenue Suite 1800 Miami, FL 33131 305-982-6398 536-4154 (fax) masels@sec.gov <i>Service via CM/ECF</i></p>	<p>James Sallah, Esq. Klein & Sallah, LLC Attorneys for Defendant ROBERT FLICKINGER 2101 North West Corporate Boulevard Suite 216 Boca Raton, FL 33431 561-989-9080 561-989-9020 (fax) jds@kleinsallah.com <i>Service via CM/ECF</i></p>
<p>Jon Polenberg, Esq. Polenberg Cooper, P.A. JOSEPH FISHER 4300 North University Drive Suite D-204 Fort Lauderdale, FL 33351 954- 742-9995 954-742-9971 (fax) jon@pcpalaw.com <i>Service via CM/ECF</i></p>	

PROOFS OF CLAIM SUMMARY

Proof of Claim #		Contribution	Withdrawals	Adjusted Claim	Second Distribution
APPROVED					
1	Tri-State	\$ 20,000.00	\$ -	\$ 20,000.00	\$ 3,957.67
2	Tri-State	10,000.00	(100.00)	9,900.00	1,959.04
3	Tri-State	40,000.00	(400.00)	39,600.00	7,836.18
4	Tri-State	20,000.00	(400.00)	19,600.00	3,878.51
5	Tri-State	20,000.00	(199.00)	19,801.00	3,918.29
6	Tri-State	20,000.00	(400.00)	19,600.00	3,878.51
7	Tri-State	20,000.00	(333.00)	19,667.00	3,891.77
8a	Tri-State	10,000.00	(200.00)	9,800.00	1,939.26
9	Tri-State	80,000.00	(800.00)	79,200.00	15,672.37
10	Tri-State	10,000.00	-	10,000.00	1,978.84
11	Tri-State	20,000.00	-	20,000.00	3,957.67
12a	Tri-State	20,000.00	(266.00)	19,734.00	3,905.03
12b	Tri-State	20,000.00	(532.00)	19,468.00	3,852.39
13	Tri-State	30,000.00	(799.00)	29,201.00	5,778.40
14	Tri-State	20,000.00	(200.00)	19,800.00	3,918.09
15	Tri-State	10,000.00	(133.00)	9,867.00	1,952.52
16a	Tri-State	40,000.00	(800.00)	39,200.00	7,757.03
17	Tri-State	20,000.00	(333.00)	19,667.00	3,891.77
18	Tri-State	40,000.00	(400.00)	39,600.00	7,836.18
19	Tri-State	40,000.00	-	40,000.00	7,915.33
20	Tri-State	20,000.00	-	20,000.00	3,957.67
21	Tri-State	40,000.00	(400.00)	39,600.00	7,836.18
22	Tri-State	20,000.00	(200.00)	19,800.00	3,918.09
23	Tri-State	200,000.00	(2,000.00)	198,000.00	39,180.95
24	Tri-State	40,000.00	-	40,000.00	7,915.33
25	Tri-State	60,000.00	(500.00)	59,500.00	11,774.06
26	Tri-State	20,000.00	(200.00)	19,800.00	3,918.09
27a	Tri-State	100,000.00	(1,333.00)	98,667.00	19,524.56
27b	Tri-State	92,000.00	-	92,000.00	18,205.28
28	Tri-State	20,000.00	-	20,000.00	3,957.67
29	Tri-State	10,000.00	(266.00)	9,734.00	1,926.20
30	Tri-State	40,000.00	(999.00)	39,001.00	7,717.65
31	Tri-State	160,000.00	(2,600.00)	157,400.00	31,146.85
32	Tri-State	30,000.00	(799.00)	29,201.00	5,778.40
33	Tri-State	50,000.00	-	50,000.00	9,894.17
34	Tri-State	10,000.00	-	10,000.00	1,978.84
35	Tri-State	20,000.00	-	20,000.00	3,957.67
36a	Tri-State	60,000.00	(2,370.00)	57,630.00	11,404.02
37	Tri-State	10,000.00	(133.00)	9,867.00	1,952.52
38a	Tri-State	20,000.00	(266.00)	19,734.00	3,905.03
39a	Tri-State	20,000.00	(400.00)	19,600.00	3,878.51
39b	Tri-State	20,000.00	(400.00)	19,600.00	3,878.51
40	Tri-State	40,000.00	(666.00)	39,334.00	7,783.55
41	Tri-State	20,000.00	(266.00)	19,734.00	3,905.03
42	Tri-State	20,000.00	(200.00)	19,800.00	3,918.09
43	Tri-State	20,000.00	-	20,000.00	3,957.67
44	Tri-State	10,000.00	-	10,000.00	1,978.84
45	Tri-State	40,000.00	(800.00)	39,200.00	7,757.03
46	Tri-State	20,000.00	(200.00)	19,800.00	3,918.09
47	Tri-State	20,000.00	(400.00)	19,600.00	3,878.51
48	Tri-State	30,000.00	-	30,000.00	5,936.51
49	Tri-State	10,000.00	(165.00)	9,835.00	1,946.18
50	Tri-State	10,000.00	(216.00)	9,784.00	1,936.09
51a	Tri-State	50,000.00	(833.00)	49,167.00	9,729.34
52a	Tri-State	20,000.00	-	20,000.00	3,957.67
52b	Tri-State	160,000.00	-	160,000.00	31,661.34
53	Tri-State	100,000.00	(3,400.00)	96,600.00	19,115.54
54	Tri-State	10,000.00	-	10,000.00	1,978.84
55	Tri-State	10,000.00	-	10,000.00	1,978.84
56	Tri-State	18,400.00	-	18,400.00	3,641.06
57	Tri-State	60,000.00	(1,086.00)	58,914.00	11,658.11
58	Tri-State	10,000.00	(165.00)	9,835.00	1,946.18
59	Tri-State	20,000.00	(200.00)	19,800.00	3,918.09
60	Tri-State	10,000.00	-	10,000.00	1,978.84
61	Tri-State	10,000.00	-	10,000.00	1,978.84
62	Tri-State	20,000.00	-	20,000.00	3,957.67
63	Tri-State	20,000.00	-	20,000.00	3,957.67
64	Tri-State	20,000.00	-	20,000.00	3,957.67
65	Tri-State	25,000.00	-	25,000.00	4,947.08

PROOFS OF CLAIM SUMMARY

Proof of Claim #		Contribution	Withdrawals	Adjusted Claim	Second Distribution
66	Tri-State	20,000.00	-	20,000.00	3,957.67
67	Tri-State	100,000.00	-	100,000.00	19,788.34
68	Tri-State	40,000.00	-	40,000.00	7,915.33
69	Tri-State	30,000.00	-	30,000.00	5,936.51
70	Tri-State	10,000.00	-	10,000.00	1,978.84
125	Tri-State	20,000.00	(753.00)	19,247.00	3,808.66
8b	Mercer	23,375.00	(400.00)	22,975.00	4,546.37
16b	Mercer	28,750.00	(1,000.00)	27,750.00	5,491.26
36b	Mercer	10,000.00	-	10,000.00	1,978.84
38b	Mercer	10,000.00	-	10,000.00	1,978.84
51b	Mercer	28,750.00	(1,500.00)	27,250.00	5,392.32
72	Mercer	5,000.00	(400.00)	4,600.00	910.26
73	Mercer	1,500.00	-	1,500.00	296.82
74	Mercer	10,000.00	-	10,000.00	1,978.84
75	Mercer	13,000.00	(1,400.00)	11,600.00	2,295.45
76	Mercer	10,750.00	-	10,750.00	2,127.25
77	Mercer	7,200.00	-	7,200.00	1,424.76
78	Mercer	10,000.00	-	10,000.00	1,978.84
79	Mercer	3,000.00	-	3,000.00	593.65
80	Mercer	6,852.37	-	6,852.37	1,355.98
81	Mercer	11,125.00	-	11,125.00	2,201.45
82	Mercer	5,000.00	(400.00)	4,600.00	910.26
83	Mercer	10,000.00	-	10,000.00	1,978.84
84	Mercer	16,500.00	(1,800.00)	14,700.00	2,908.88
85	Mercer	11,500.00	-	11,500.00	2,275.66
86	Mercer	100,000.00	-	100,000.00	19,788.34
87	Mercer	20,000.00	-	20,000.00	3,957.67
88	Mercer	10,000.00	-	10,000.00	1,978.84
89	Mercer	5,000.00	-	5,000.00	989.41
90	Mercer	15,000.00	-	15,000.00	2,968.25
91	Mercer	10,000.00	-	10,000.00	1,978.84
92	Mercer	11,125.00	(615.00)	10,510.00	2,079.75
93	Mercer	5,000.00	-	5,000.00	989.41
94	Mercer	5,000.00	-	5,000.00	989.41
95	Mercer	5,000.00	-	5,000.00	989.41
96	Mercer	5,750.00	-	5,750.00	1,137.82
97	Mercer	5,000.00	(700.00)	4,300.00	850.90
98	Mercer	5,000.00	-	5,000.00	989.41
99	Mercer	10,750.00	-	10,750.00	2,127.25
100	Mercer	5,750.00	-	5,750.00	1,137.82
101	Mercer	20,000.00	-	20,000.00	3,957.67
102	Mercer	5,000.00	-	5,000.00	989.41
103	Mercer	15,000.00	-	15,000.00	2,968.25
104	Mercer	5,750.00	(600.00)	5,150.00	1,019.10
105	Mercer	5,000.00	-	5,000.00	989.41
106	Mercer	69,000.00	(7,280.00)	61,720.00	12,213.36
107	Mercer	6,000.00	-	6,000.00	1,187.31
108	Mercer	5,000.00	-	5,000.00	989.41
109	Mercer	5,000.00	-	5,000.00	989.41
110	Mercer	5,450.00	(400.00)	5,050.00	999.31
111	Mercer	11,575.00	(1,100.00)	10,475.00	2,072.83
112	Mercer	5,000.00	-	5,000.00	989.41
114	Mercer	14,000.00	-	14,000.00	2,770.37
115	Mercer	14,900.00	(4,900.00)	10,000.00	1,241.69
116	Mercer	5,000.00	(400.00)	4,600.00	910.26
117	Mercer	10,000.00	-	10,000.00	1,978.84
118	Mercer	5,375.00	-	5,375.00	1,063.62
119	Mercer	11,500.00	-	11,500.00	2,275.66
120	Mercer	10,000.00	-	10,000.00	1,978.84
121	Mercer	5,000.00	(100.00)	4,900.00	1,014.76
122a	Mercer	7,500.00	(200.00)	7,300.00	1,444.54
122b	Mercer	1,875.00	-	1,875.00	371.03
123	Mercer	5,000.00	-	5,000.00	989.41
124	Mercer	10,000.00	-	10,000.00	1,978.84
128	Mercer	93,750.00	(10,800.00)	82,950.00	16,414.43

Approved Proofs of Claim \$ 3,387,752.37 \$ (62,506.00) \$ 3,325,246.37 \$ 657,319.09

		PROOFS OF CLAIM SUMMARY			
Proof of Claim #		Contribution	Withdrawals	Adjusted Claim	Second Distribution
DISPUTED					
113	Mercer	5,000.00	-	5,000.00	989.41
Disputed Proofs of Claim		\$ 5,000.00	\$ -	\$ 5,000.00	\$ 989.41
Total Proofs of Claim		\$ 3,392,752.37	\$ (62,506.00)	\$ 3,330,246.37	\$ 658,308.50