

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 FOR ENLARGEMENT OF TIME
TO MAKE SECOND DISTRIBUTION TO APPROVED CLAIMANTS**

Court-Appointed Receiver, Daniel S. Newman (“Receiver”) hereby files this Motion for Enlargement of Time to Make Second Distribution to Approved Claimants. *The Receiver is authorized to state that the Securities and Exchange Commission agrees to the relief sought herein.* In Support of this Motion, the Receiver states:

1. This Court entered its Order Granting Agreed Motion to Approve Second Distribution to Holders of Approved Claims on June 30, 2010 [DE 161]. Pursuant to the Court’s Order, the Receiver was required to make a second distribution no later than sixty (60) days from the date of that Order—**August 27, 2010**. On August 4, 2010, the Receiver filed a Motion to Deem All Claims Not Filed By Claims Bar Date Barred [DE 162]. That Motion was filed as a result of recent requests by three investors seeking to participate in the claims distribution process after the claims bar date. The investors identified in the Receiver’s Motion did not file a Proof of Claim form prior to the claims bar date, or at anytime thereafter.

2. Depending on the Court’s ruling on the Receivers’ Motion to Deem All Claims Not Filed By Claims Bar Date Barred [DE 162], the Receiver may need to re-calculate all of the

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previously approved investors' pro rata distributions to account for these contingent investor requests. In this regard, should the Court allow investors or creditors that did not timely file a Proof of Claim to participate in the claims process, the Receiver will need to review the claim forms once they are submitted and then seek approval from the Court whether to approve or deny such requests. Moreover, if these claims were to be approved, the Receiver will also need to recalculate the pro rata distribution to investors to account for the additional investor claims in the finite pool funds. These tasks cannot be completed prior to the Court's deadline set forth in its June 30, 2010 Order [DE 161]. Accordingly, additional time is necessary so that the Receiver can resolve these issues before a second distribution can be made to the Receivership's investors.

3. Once the Court enters an order on the Receiver's Motion to Deem All Claims Not Filed By Claims Bar Date Barred [DE 162], the Receiver will be in a position to either expeditiously proceed with the second distribution, or advise the Court when such a distribution can be made in light of the additional tasks that may be required.

WHEREFORE, the Receiver respectfully requests that the Court grant the Receiver's Motion for Enlargement of Time to Make the Second Distribution to Approved Claimants until such time that the Court determines whether to allow the investors identified in the Receiver's Motion to Deem All Claims Not Filed By Claims Bar Date Barred [DE 162]. Once the Court has decided that issue, the Receiver will advise the Court of a proposed deadline by which the Receiver will make the second distribution to investors.

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Respectfully submitted,

BROAD AND CASSEL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 18, 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. Rosenberg

DAVID B. ROSEMBERG

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