

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

TREASURE ENTERPRISE LLC,
PATRICIA ENRIGHT GRAY and LARRY
ALLEN HOLLEY

No. 17-cv-10963
Hon. Marianne O. Battani

Defendants,

and

KINGDOM ASSET MANAGEMENT LLC
and CARLEEN RENEE HOLLY,

Relief Defendants

**MOTION FOR APPROVAL OF ALLOWED CLAIM AMOUNTS
FOR PURPOSES OF MAKING DISTRIBUTIONS TO CREDITORS**

Patrick O’Keefe and O’Keefe and Associates Consulting, LLC (the “Receiver”), through their counsel, Jaffe, Raitt, Heuer & Weiss, P.C. file this Motion for Approval of Allowed Claim Amounts for Purposes of Making Distributions to Creditors (the “Motion”), and in support thereof state as follows:

Introduction

Through this Motion, the Receiver is seeking this Court's approval of the amount of each creditors' claim, as calculated by the Receiver (the "Allowed Amount"), for purposes of making distributions to the creditors.

ALL CREDITORS ARE ENCOURAGED TO READ THIS MOTION AND REVIEW, ON THE ATTACHED EXHIBITS, THE PROPOSED ALLOWED AMOUNT OF EACH CREDITOR'S CLAIM.

EXHIBIT 1 CONTAINS A LIST OF CREDITOR CLAIMS WHICH THE RECEIVER BELIEVES HAVE BEEN AGREED TO WITH THE CREDITORS NOTED ON EXHIBIT 1. SUCH CREDITOR CLAIMS ARE LISTED ON EXHIBIT 1 IN AN AMOUNT THAT WAS EITHER: (I) STATED IN A NOTICE OF THE PROPOSED CLAIM AMOUNT MAILED TO THE CREDITOR, TO WHICH THE CREDITOR DID NOT RESPOND OR OTHERWISE OBJECT; OR (II) AGREED UPON BY THE RECEIVER AND THE RESPECTIVE CREDITOR AFTER THE CREDITOR RESPONDED TO THE NOTICE OF HIS OR HER PROPOSED CLAIM AMOUNT.

EXHIBIT 2 CONTAINS THE LIST OF CREDITOR CLAIMS WHICH ARE STILL IN DISPUTE. AS TO THOSE STILL IN DISPUTE, THE RECEIVER WILL ASSUME THE HIGHER AMOUNT ASSERTED

BY THE CREDITOR AND WILL WITHHOLD SUFFICIENT FUNDS TO PAY THE CLAIMED HIGHER AMOUNT, IF THE CREDITOR PREVAILS IN A RESOLUTION OF ITS CLAIM AMOUNT.

EXHIBIT 3 CONTAINS THE LIST OF TRADE CREDITOR CLAIMS, WHICH WERE REVIEWED AND ACCEPTED BY THE RECEIVER IN THE AMOUNT ASSERTED.

BASED ON THESE ALLOWED AMOUNTS, THE RECEIVER WILL CALCULATE THE PERCENTAGE DISTRIBUTION TO BE MADE TO EACH CREDITOR, CONSISTENT WITH PRIOR RULINGS MADE BY THE COURT.

Background

1. This Court has jurisdiction over this action pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v] and Section 27 of the Exchange Act [15 U.S.C. § 78aa].
2. Venue is proper in this Court pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].
3. Pursuant to this Court's Sealed Order Appointing Receiver [Docket No. 10] entered on March 28, 2017 (the "Receivership Order"), the Receiver was appointed over the defendants (the "Defendants").

4. Pursuant to Paragraph 7D of the Receivership Order, the Receiver was authorized to “use Receivership Property”¹ for the benefit of the Receivership Estate, **making payments and disbursements** and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver.” *Id.* at ¶ 7D (emphasis added).

5. Pursuant to Paragraph 41 of the Receivership Order, the Receiver was authorized “to take all actions to manage, maintain, and/or wind-down business operations of the Receivership Estates, including **making legally required payments to creditors, employees, and agents of the Receivership Estates** and communicating with vendors, investors, governmental and regulatory authorities, and others, as appropriate.” *Id.* at 41 (emphasis added).

The Proofs of Claim Submission Process

6. On October 6, 2017, the Court entered the *Order Granting Motion of Receiver to Establish Claims Procedure* [Docket No. 75] (the “Claims Procedure Order”).

7. Pursuant to the Claims Procedure Order, all known creditors of the Receivership Estates were provided with a Proof of Claim form and were advised to return their Proofs of Claim not later than December 15, 2017. In addition,

¹ Capitalized terms not otherwise defined herein shall have the meaning given to them in the Receivership Order.

pursuant to the Claims Procedure Order, notice of entry of the Claims Procedure Order and of the December 15, 2017 deadline was published in the Wall Street Journal and in the Flint Journal.

8. Per the Claims Procedure Order, any creditor who did not file a Proof of Claim by the bar date set forth in the Claims Procedure Order would not share in a distribution from the Receivership Estates. However, various Proofs of Claim were filed after the bar date set forth in the Claims Procedure Order, which are included on **Exhibits 1, 2 or 3**. As part of this Motion, the Receiver is seeking to include Proofs of Claim filed after the bar date set in the Claims Procedure Order, to afford all claimants the ability to participate in the distributions to be made from the Receivership Estates.

Summary of the Proofs of Claim Filed

9. As a result of the dissemination of the Claims Procedure Order and the documents referenced therein to the creditors of the Receivership Estates and based on the publications made:

(a) 176 Proofs of Claim were filed; of this number 162 relate to investments made and 14 relate to trade payables (such as professional fees, utility charges, building or HVAC maintenance, agreements to liquidate personal property, state taxes, insurance, or property management);

(b) The total amount sought in the Proofs of Claim exceeds \$12,250,000 (inclusive of claimed unpaid interest and other damages);

(c) Of the Proofs of Claim filed, less than \$600,000 is claimed to be secured by assets of the Receivership Estates;

(d) According to the Proofs of Claim, approximately \$14,000,000, in total, is claimed to have been invested with the Defendants;

(e) According to the Proofs of Claim, approximately \$1,700,000 was returned to various creditors, either as a return of principal or interest; however, a significant number of creditors either did not answer the question of how much was received or did not answer it with a specific dollar value;

(f) Of the 162 investor creditors, approximately 87 indicated that they received some return on their investment (a payment toward principal or interest), while approximately 75 claimed to have never received any payment on their investment or did not answer the question, whether interest or principal; and

(g) Of those investors who indicated that they received payment (whether as interest or principal), the percentage claimed as returned ranges from approximately 5% to 95%.

The Claims Methodology Motion

10. The Receiver previously filed its Motion for Approval of Claims Distribution Methodology [Docket No. 70] (the "Claims Methodology Motion"), which was granted by the Court.

11. The Claims Methodology Motion established certain parameters which the Receiver became bound to follow, in reviewing each creditor claim to determine its Allowed Amount. Specifically based on the Order Granting Motion for Approval of Claims Distribution Methodology [Docket No. 75] (the "Claims Methodology Order"), the following rules were established to govern the review of each creditor claim:

A. In determining the amount of each Allowed Claim related to a loan made, the Receiver was to review all cash loaned by a creditor, and was to subtract from that all amounts received back by the creditor, whether principal or interest. This was known as the “A” portion of each claim.

B. Any profit that had been promised but not paid (fictitious profit) was to be excluded from the “A” portion of each claim and treated as the “B” portion of each claim.

C. Also to be included in the “B” portion of each claim are claims seeking repayment of bank charges/fees, attorney fees, amounts prepaid for unperformed investment training, amounts owing for personal property given to the Defendants to liquidate and allegedly never liquidated, funds intended as charitable donations but diverted, and damages related to the sale, purchase or management of real property.

D. The “B” portion of each claim would also include IRS penalties for early withdrawal from a creditor’s IRA account, based on the Defendants’ failure to properly roll over the IRA account money into other IRA accounts, or based on the failure of Defendants to advise creditors that a penalty would be incurred for early withdrawal.

E. Until the “A” portion of each claim is paid in full, there is to be no distribution on the “B” portion of each claim. In this case there will be

insufficient funds to pay the “A” portion of each claim, so no distribution will be made on the “B” portion.

F. The Receiver is not obligated to pursue, through litigation, the recovery of money which creditors were previously paid, even if the creditor was paid in full. Instead, those payments, whether of principal or interest, will result in a reduction in a creditor’s claim amount.

G. Distributions to creditors are to be made under the “Rising Tide Method.” Under this distribution method, the goal is to assure that every creditor has received a minimal return on its investment. As a result, not all creditors of the Receivership Estates will receive a distribution. For example, if the total claims of the Receivership Estates are \$8,000,000 and the Receiver has \$1,600,000 to distribute, not all creditors would receive a 20% distribution. Certain creditors would receive a distribution of less than 20% (those who received a greater percentage return of aggregate funds on their investment versus others), while other creditors would receive a distribution up to the 20%. The exact cut-off percentage will not be known until all Allowed Claims are determined and all amounts available to be collect are collected.

H. The claims of general unsecured creditors are to be treated equally with the claims of investor creditors. General unsecured creditors are not to be subordinated to the payment of investor creditors.

Analysis of the Proofs of Claim

12. The Receiver and its professionals have reviewed and reconciled the various Proofs of Claim of record. In doing so, in addition to the Proofs of Claim, the Receiver had three other data sets from which to work. First, the Securities and Exchange Commission had obtained bank records of the Defendants for the time-period of August 1, 2011 through March 31, 2017, showing inflows and outflows of cash from the Defendants only (not affiliates), and categorized them by investor (the "SEC Records"). Second, the Defendants provided the Receiver with an investor list with stated debt amounts (the "Investor Lists"). Finally, the Receiver has reviewed investor files maintained by the Defendants (the "Investor Files").

13. The claims review process included comparing the amounts asserted in the Proofs of Claim and the documentation attached thereto (i.e. check copies, bank statements, promissory notes, agreement, correspondences, handwritten summaries, etc.), with the SEC Records, the Investor Lists and the Investor Files.

14. Once that comparison was completed, the Receiver determined a proposed Allowed Amount for each creditor and mailed to each creditor a letter setting forth their proposed Allowed Amount and invited discussion with any

creditor who had questions. Each letter also requested that any creditor wishing to dispute the proposed Allowed Amount of their claim contact the Receiver's counsel by phone, email or regular mail within twenty one (21) days of the date of the letter.

15. As a result, the Receiver fielded many comments from creditors and reached resolution or never received any objection from the creditors whose proposed Allowed Amounts are noted on **Exhibit 1**.

16. Set forth on **Exhibit 2** are the proposed Allowed Amounts of creditors whose claims are still in dispute with the Receiver. Also on **Exhibit 2** is the total amount asserted by the creditor (the "Claimed Amount"). For purposes of any distribution, the Receiver will assume the higher Claimed Amount asserted by the creditor and will escrow any distribution based on the higher Claimed Amount, pending a determination of a creditor's Allowed Amount. Any excess withheld will be returned to the general pool for distribution to all creditors. To the extent controversies remain, the Receiver intends to use the mediation process set forth in the Claims Procedure Order to resolve any claim disputes.

17. Accordingly, the Receiver is requesting that the Court approve the Allowed Amounts set forth on **Exhibit 1**, the Claimed Amounts on **Exhibit 2** for purposes of creating a reserve for distributions, with the Claimed Amounts on **Exhibit 2** to be adjusted upon their final adjudication and the trade creditor

amounts set forth on **Exhibit 3**. In so doing, the Receiver is requesting that claims filed after the bar date set forth in the Claims Procedure Order be deemed timely.

Wherefore the Receiver requests that the Court grant the relief set forth herein, together with such other relief as the Court deems equitable and just.

Respectfully submitted by,

JAFFE RAITT HEUER & WEISS, P.C

Dated: July 23, 2019

By: /s/ Jay L. Welford
Jay L. Welford (P34471)
Counsel to the Receiver
27777 Franklin Road, Suite 2500
Southfield, MI 48034-8214
(248) 351-3000
jwelford@jaffelaw.com

EXHIBIT 1

Allowed Claims Not In Dispute

[See attached]

EXHIBIT 1

CLAIM NO.	NAME	AMOUNT OF CLAIM
1	Oneda Veronica Coombs	\$53,411.20
2	Charolene Finley	\$12,289.46
3	Reginald H Coleman	\$0.00
4	William and Melinda Jones	\$8,881.14
5	Mary Kahi	\$2,589.69
6	Sarah Harris	\$32,122.41
7	Marilyn Leahy Poll	\$238,717.50
8	Vernita Moore	\$32,217.59
9	Peggy Jean Hughes	\$25,000.00
10	Jeffery Anderson	\$91,784.45
12	Marlene James	\$13,500.00
13	Cora Jean Woods	\$31,000.00
15	Gregory Lamar Mitchell	\$11,650.06
16	Avis Otlar	\$25,316.62
18	Roger R. Williams	\$228,024.23
19	Betty Knapp	\$50,000.00
20	Madeline Mills	\$14,772.33
21	Virginia Adams	\$46,000.00
22	Ann B. Jolly	\$91,251.64
23	Terri Peaks	\$4,212.52
25	Betty Panky	\$133,565.59
26	Ethel Shaw	\$36,680.44
27	Genevieve Benson	\$32,337.03
28	Sandra E. Henderson	\$78,503.68
30	Dennis J. Sykes	\$29,604.75
33	Esta Whitsett	\$44,868.80
34	Karen McDaniel	\$4,297.89
38	Curtis Wilburn	\$41,005.28
39	Geraldine Wilburn	\$34,200.00
40	Claresa L. Price	\$302,380.74
41	Isadore Price	\$45,869.37
42	Shirley Rae McIntosh	\$133,803.57
43	Thelma Mason	\$38,180.00
44	Opal Jean Long	\$12,500.30
45	Meagan Pinkney	\$90,630.45
46	Yvette Denise Marshall	\$12,382.88

CLAIM NO.	NAME	AMOUNT OF CLAIM
47	Vanessa Ellis	\$4,500.00
48	Claudia Russell	\$163,287.71
49	Grace Udo	\$34,744.69
50	Mattie Thornton	\$0.00
51	Jonitra Hunter	\$27,050.12
52	John Brown	\$17,868.07
53	Brenda Lee Allen	\$2,049.76
54	Levoid Price	\$140,858.11
55	Donna L. Evans	\$19,032.08
56	Brandon Jones	\$120,174.26
57	Larry Davenport c/o Michael Clifford, Esq.	\$55,772.17
58	Harvey and Anita Hammett	\$845.06
59	Charles Williams	\$29,735.94
60	Viola Drane	\$0.00
61	Margaret Scott	\$8,917.31
62	Monther Fahed Hawa	75,715.33
63	Irene Hamlett	\$1,076.35
64	Carolyn Taylor Williams	\$16,800.00
65	Emma Taylor	\$3,200.00
66	J. Russell Patterson	\$44,888.65
67	David McGowen	\$221,392.34
68	Demitrius Murchison	\$10,000.00
69	Felicee Murchison	\$0.00
70	Richard Lipscomb	\$15,000.00
72	Angella Whitter	\$50,000.00
73	Versie Cobb	\$20,332.58
74	Norma Beckford	\$96,324.93
75	Alessia Perry	\$5,000.00
76	Michelle Scott c/o Patrick J. Malloy III	\$221,924.86
78	Bisola Oyedele	\$64,776.46
79	Kerri Ann Hodge	\$3,481.57
80	Yonetta Renee Kendall	\$141,272.23
81	Catherine and Nathaniel Washington Sr.	\$21,248.26
82	Kennith R. Dunk	\$29,020.72

CLAIM NO.	NAME	AMOUNT OF CLAIM
83	Mitchell Atkinson Jr.	\$0.00
84	Leroy Azard	\$15,269.11
85	Rose M. Noble	\$10,755.03
86	Allen R. Thomas	\$46,771.80
87	Tyree W. Williams	\$30,263.48
88	Joan Merritt	\$6,922.34
89	Leroy Spence	\$28,266.69
90	Monnie Carter	\$233,333.36
91	Precious Faith Church of God in Christ	\$10,308.80
92	Cyril L. Manning	\$182,171.37
93	Carrole Althea Cameron	\$5,228.32
96	Hyacinth McDonald	\$6,000.00
97	Edward Bogan	\$78,367.65
99	Alice Bogan	\$46,000.00
100	Shirley A. Sutton	\$2,127.83
101	Jimmie Robinson c/o Rachel Hawryle, Esq. Christenson & Fiederlein, PC	\$45,140.92
102	Anges Lowery c/o Rachel Hawryle, Esq. Christenson & Fiederlein, PC	\$38,231.78
104	Reuben Lowery c/o Rachel Hawryle, Esq. Christenson & Fiederlein, PC	\$77,190.00
106	Joyce Wiggins c/o Rachel Hawryle, Esq. Christenson & Fiederlein, PC	\$62,050.22
107	Moses Brinson c/o Rachel Hawryle, Esq. Christenson & Fiederlein, PC	\$376,470.48
110	Carolyn Cordeiro	\$64,360.06
111	Carla R. Freeman	\$59,076.66
112	Beckie Hayes	\$48,134.84
113	Yvonne E. Craiger	\$9,526.42
114	Edmond and Tawana Parker	\$35,812.18
115	Marie Solange Ceus	\$17,798.32

CLAIM NO.	NAME	AMOUNT OF CLAIM
116	Darna Hughes	\$25,093.39
119	Kenyetta Z. Golson	\$8,930.77
120	Marsha Griggs	\$215,100.00
121	Alvin Murphy	\$3,552.21
123	Evelyn L. Patterson	\$63,500.00
124	Locquin Renea Bryant	\$34,437.90
125	Cassandra Oliver	\$44,576.99
126	Karen Yvette McGlory	\$26,920.49
127	Jacqueline Wood	\$128,786.04
128	Vennette L. Lott	\$25,897.84
129	John W. Jackson	\$52,400.00
131	Portia Bearyman Fair	\$15,456.17
132	Gerald Francis	\$32,890.32
133	Rosyln D. Ballard	\$7,963.58
134	Wanda Devon Wilson	\$500,000.00
135	Annie Davis	\$4,385.76
136	Michelle King	\$18,014.69
137	Celquetti Easter	\$18,374.20
139	Debra Charlisa Hills	\$27,645.50
140	Larry Campbell	\$50,000.00
141	New Life World Outreach	\$0.00
143	Douglas W. Harrison	\$13,190.16
144	Linda Elizabeth Cheek	\$9,096.00
146	Gary and June Thompson	\$291,830.89
147	Diane P. Washington	\$32,581.90
148	Larry Jefferson	\$10,743.80
149	Rodney Dennis	\$55,140.35
150	Eileen Barron c/o Marcellous McZeal, Esq.	\$284,830.29
151	Robert and Ruth Rodgers	\$11,425.77
152	Denise Williams	\$5,700.51
153	Charles E. Williams	\$1,038.46
154	Clyde and Barbara Jones	\$4,500.00
155	Simone Wofford	\$0.00
156	Danita Woodhouse	\$5,309.43
157	Shirley Clark	\$25,107.01
159	John Bailey	\$26,179.81

CLAIM NO.	NAME	AMOUNT OF CLAIM
163	Mary E. Colon	\$119,246.51
164	Susie Martin	\$4,250.00
165	Anthony Simmons	\$15,833.37
166	Vanessa Jones	\$0.00
167	Nellie M. Willis/Macie Moore	\$2,880.00
168	Brenda Jean Cardwell	\$0.00
171	Marlon Johnson	\$0.00
172	Monroe Sims	\$5,500.00
173	Alvin Burt	\$6,800.00
174	Joseph Luckey	\$137,634.07
175	Ronald J. Sommers, as Ch. 7 Trustee for Ednalyn Sangel	\$193,002.74
176	Leona R. Harrell	\$79,948.61

EXHIBIT 2

Claims In Dispute

[See attached]

EXHIBIT 2

CLAIM NO.	NAME	AMOUNT CLAIMED BY CLAIMANT	AMOUNT DETERMINED BY RECEIVER TO BE OWING
14	Zachary Sheely	\$250,000.00	\$37,322.65
17	Virginia Rubin	\$73,372.51	\$29,919.93
29	Arthur Mark, III	\$575,762.57	\$441,878.47
109	Claudine Harris c/o Stephen J. Bowens, Esq. Bowens & Averhart, PLLC	\$94,500.00	\$50,000.00
118	Sandra L. Williams	\$249,197.67	\$212,877.67
138	Bobbie Kirby	\$206,000.00	\$39,990.04
161	State of Michigan, Dept. of Treasury, SCFRA & Collections Division	\$7,325.71	\$0.00

EXHIBIT 3

Allowed Trade Creditor Claims

[See attached]

EXHIBIT 3

CLAIM NO.	NAME	AMOUNT OF CLAIM
31	Steamaster, Inc.	\$1,200.00
32	Jeremy R.M. Piper, PLC	\$13,715.00
35	Wm. Floyd Company	\$7,707.21
36	Mark Newman	\$3,177.50
37	Consumers Energy	\$53,017.46
77	Linnell & Associates, PLLC	\$4,014.60
117	Hertz Schram PC, Matthew Turchyn	\$2,492.90
130	Double T Services Inc.	\$1,640.00
145	Waste Management	\$3,363.38
158	Allen Hope & Associates	\$2,563.60
162	Dee Cramer Inc.	\$2,633.62
169	Cad fx, Inc.	\$2,400.00
170	Progressive Commercial	\$0.00

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**BRIEF IN SUPPORT OF MOTION FOR APPROVAL
OF ALLOWED CLAIM AMOUNTS FOR
PURPOSES OF MAKING DISTRIBUTIONS TO CREDITORS**

Patrick O’Keefe and O’Keefe and Associates Consulting, LLC, through their counsel, Jaffe, Raitt, Heuer & Weiss, P.C. rely on the facts and legal recitations set forth in the Motion for Approval of Allowed Claim Amounts for Purposes of Making Distributions to Creditors, in support of the relief sought therein.

Respectfully submitted by,

JAFFE RAITT HEUER & WEISS, P.C

Dated: July 23, 2019

By: /s/ Jay L. Welford
Jay L. Welford (P34471)
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No. 17-cv-10963
Hon. Marianne O. Battani

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and

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Relief Defendants
_____ /

**CERTIFICATE OF SERVICE REGARDING MOTION
FOR APPROVAL OF ALLOWED CLAIM AMOUNTS
FOR PURPOSES OF MAKING DISTRIBUTIONS TO CREDITORS**

I hereby certify that a copy of the Motion for Approval of Allowed Claim Amounts for Purposes of Making Distributions to Creditors and Certificate of Service were served upon all counsel of record on July 23, 2019 using the Court's CM/ECF filing system and by mailing a copy to the last known address of each creditor.

/s/ Deon M. Goldberg