

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL J. QUILLING,

Plaintiff,

Case No.: 1:03-CV – 0236

Hon. Robert Holmes Bell

v.

TRADE PARTNERS, INC.
Defendant.

_____ /.

**MOTION FOR AUTHORITY TO MAKE A SECOND INTERIM
DISTRIBUTUION**

TO THE HONORABLE ROBERT HOLMES BELL, UNITED STATES DISTRICT JUDGE
AND THE HONORABLE ELLEN S. CARMODY, UNITED STATES MAGISTRATE JUDGE:

COMES NOW Bruce S. Kramer, in his capacity as Receiver, and files this Motion for Authority to Make Second Interim Distribution and in support of this Motion, the Receiver respectfully states as follows:

Facts

1. By order of April 15, 2003, the Court appointed Bruce S. Kramer as Receiver for Trade Partners, Inc., authorizing and charging him to take complete and exclusive control, possession, and custody of all "Receivership Assets" of Trade Partners, Inc. (Agreed Order Appointing Receiver, Dkt. No. 6, at ¶ 2.) "Receivership Assets" include "the assets, monies, securities, choses in action, and properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated, of Defendant Trade Partners, Inc." (*Id.* ¶ 1.) On July 21,

2003, the Court entered an order extending the Receiver's authority and responsibility to include various related entities, including trusts and limited liability companies. (Order, Dkt. No. 141, at 1.)

2. Since his appointment the Receiver has discharged his duties by, *inter alia*, marshalling the assets, formulating a plan and procedure to determine and administer claims and for pro-rata distribution to allowed claimants.

3. Under the approved Plan and Procedures, the Court has approved "A" claims in an amount exceeding \$161,000,000 and the Receiver, with Court approval, has distributed over \$43,150,000 to these "A" claimant, which represents over 26.96% of the investors' original investment.

4. There are approximately 3500 Class "A" claimants holding approximately 6,500 claims. The cost to process a partial distribution is approximately \$50,000.

5. As stated in the Receiver's 23rd Interim Report, it was anticipated that a final distribution would be made in July of this year, following approval of a Final Report and Plan. However, because of continuing issues, including an appeal pending in the Sixth Circuit, which will take several more months for a final resolution, the Receiver, being mindful that this receivership has been pending for several years and the allowed claimants need and deserve their money, believes it is prudent to incur the costs to make an interim and additional partial distribution of \$10,000,000, representing an additional 6.2% return to the "A" claimants now instead of waiting for the case to be closed.

Argument and Authorities

6. Two basic principles of law govern the administration of equitable receiverships in federal district courts. *Securities & Exchange Comm'n v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986). First, a federal district court possesses extremely broad power to supervise an equity

receivership and determine the appropriate course of action in the administration of the receivership.

Id. Second, the primary purpose of an equitable receivership is ensure the orderly and efficient administration of the receivership estate. *Id.*

A federal district court has broad authority to allow a receiver to expend funds for the benefit of the estate. *See Securities & Exch. Comm'n v. Elliott*, 953 F.2d 1560, 1576 (11th Cir. 1992), *Securities & Exch. Comm'n v. Phoenix Telecom, L.L.C.*, 231 F. Supp. 2d 1223, 1226-1227 (N.D. Ga. 2001). The ultimate responsibility of a receiver is to maximize the return to the victims of a fraud in the most efficient and timely manner as possible.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that the Court issue an order authorizing him to expend the necessary funds to make a second interim and partial distribution of Ten Million Dollars (\$10,000,000.00) to Class "A" claimants.

Respectfully submitted,

BOROD & KRAMER, P.L.C.

By: /s/ Bruce S. Kramer
Bruce S. Kramer (TN Bar No. 7472)

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ATTORNEYS FOR RECEIVER

Dated: February 24, 2009

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing MOTION FOR AUTHORITY TO MAKE SECOND INTERIM DISTRIBUTION has been posted on the Receivers' website www.bskreceiver.com and on the Examiner's website www.tpexaminer and will be served upon all parties in interest and attorneys of record

pursuant to the Court's electronic filing procedures, this the 24th day of February 2009.

/s/ Bruce S. Kramer
Bruce S. Kramer, Receiver

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