

I. Claims That Include Death Benefits.

2. Most of Trade Partners, Inc.'s ("TPI") business was devoted to the selling of fractionalized interests in life insurance contracts. These are referred to as Viaticals or Life Settlement Contracts in the industry. Investors would make an investment in one of these products with the expectation that once the policy matured, the death benefits for their interest in the policy would be paid to them. Once the death benefits are paid, they represent the investor's return of principal and the return on their investment. The Receiver has received numerous claim forms from TPI's investors computing their claim on their expected return or death benefits.

3. In an effort to treat all of the Claims equitably, the Receiver believes that investors claims should be based on their out-of-pocket losses. Stated differently, each claim is analyzed to determine a claimant's actual cash investment less any cash that was returned to them from TPI. The Court has previously approved numerous claims computed strictly on out-of-pocket losses.

4. Accordingly, the Receiver objects to all claims listed on Exhibit "A" attached hereto on the basis that they include amounts that represent expected but unpaid returns. In each instance the claimant has filed a claim for death benefits. The Receiver requests that the Court reduce their claim to the amount labeled "Receiver's Proposed Claim" which represents the actual investment made/out-of-pocket loss for that claim.

II. Claims That Failed to Deduct Interest Payments.

5. TPI also sold numerous other investments that provided a stream of payments to investors (the "Income Products"). These Income Products include Sojkara, IWM, investments in LLCs, and inventory loans. In each instance, investors would invest a fixed amount of money with the expectation of receiving monthly returns. Depending on the investment, the monthly return represented interest on their principal, return of principal, or a combination of the two.

6. The Receiver has taken the same approach to the Income Products claims that was taken with claims for Viatical and Life Settlement Contracts. Each claim was analyzed on a cash in/cash out basis to determine the out-of-pocket loss. The Receiver believes that any monies returned to the claimant from TPI, whether they represent interest or return of principal, should be subtracted from the claimant's investment amount. In many instances, investors would roll over their investments from one Income Product to the next. In those situations, the Receiver has aggregated all of the cash payments to the investor from each of their Income Product investments and subtracted those amounts from their initial investment amounts to determine the proposed claim. The Receiver has already agreed to, and the Court has approved, numerous claims where the Net Claim Amount was computed by subtracting the aggregated returns.

7. Accordingly, the Receiver objects to the following claims on the basis that they have not properly subtracted the returns that they received. In addition, the Receiver objects to any claim that includes a claim for interest:

1. **Claim No.:** A-00448
Name of Claimant: Gene Bedley
Amount of Investment: \$40,000.00
Submitted Net Claim: \$45,734.00
Receiver's Proposed Claim: \$32,022.88
Reason for Objection: Claimant received \$7,977.12 from his investment in an LLC. In addition, claimant has included an amount of \$5,734.00 for unpaid interest.

2. **Claim No.:** A-00449
Name of Claimant: Gene Bedley
Amount of Investment: \$100,000.00
Submitted Net Claim: \$111,004.00
Receiver's Proposed Claim: \$88,306.81
Reason for Objection: Claimant received \$11,693.19 from his investment in an LLC. In addition, claimant has included an amount of \$11,004.00 for unpaid interest.

3. **Claim No.:** A-00880
Name of Claimant: Janie Louise Ritchey
Amount of Investment: \$80,000.00
Submitted Net Claim: \$80,000.00 plus interest
Receiver's Proposed Claim: \$29,419.95
Reason for Objection: Claimant received \$50,580.05 from her investment in MIP, LLC and Sojkara. In addition, claimant has included an amount for unpaid interest.

4. **Claim No.:** A-01265
Name of Claimant: Marvin L. Long
Amount of Investment: \$100,000.00
Submitted Net Claim: \$100,000.00
Receiver's Proposed Claim: \$62,187.83
Reason for Objection: Claimant received \$37,812.17 from his investment in LLC 4, LLC 24, and IWM.

5. **Claim No.:** A-05983
Name of Claimant: Donald E. Pedigo
Amount of Investment: \$100,000.00
Submitted Net Claim: \$100,000.00
Receiver's Proposed Claim: \$94,924.18
Reason for Objection: Claimant received \$5,075.82 from his investment in IWM.

6. **Claim No.:** A-05984
Name of Claimant: Donald E. Pedigo
Amount of Investment: \$50,000.00
Submitted Net Claim: \$50,000.00
Receiver's Proposed Claim: \$29,705.90
Reason for Objection: Claimant received \$20,294.10 from his investment in an LLC.

III. Claims That Include Interest.

8. The Receiver has received numerous claims that included an amount for unpaid interest. In some instances the claimant has not provided a monetary amount as to what they claim to be the interest amount, but simply wrote "plus interest." Regardless, the Receiver objects to any claim that includes a claim for unpaid interest, whether enumerated or not. Accordingly, the Receiver objects to the following claims and proposes that they be given allowed claims in the amount of their investment:

1. **Claim No.:** A-03929
Name of Claimant: Maria C. Berrueta
Amount of Investment: \$10,000.00
Submitted Net Claim: \$10,000.00 plus interest
Receiver's Proposed Claim: \$10,000.00

2. **Claim No.:** A-06079
Name of Claimant: Maria C. Berrueta
Amount of Investment: \$10,000.00
Submitted Net Claim: \$10,000.00 plus interest
Receiver's Proposed Claim: \$10,000.00

3. **Claim No.:** A-06080
Name of Claimant: Maria C. Berrueta
Amount of Investment: \$10,000.00
Submitted Net Claim: \$10,000.00 plus interest
Receiver's Proposed Claim: \$10,000.00

4. **Claim No.:** A-05256
Name of Claimant: William J. Eddy
Amount of Investment: \$10,000.00
Submitted Net Claim: \$1,400.00
Receiver's Proposed Claim: \$0.00

Reason for Objection: Claimant invested \$10,000.00 on July 21, 1997 in the MCM-S policy. On April 7, 1999, claimant received all of his principal back from TPI. His claim is solely for interest on his investment principal which was returned. Accordingly, the Receiver objects to his claim and requests that the Court enter an order disallowing the claim in its entirety.

IV. Other Objections.

9. Michael A. Scalfani ("Scalfani") filed three claims (A-03034, A-03035 and A-03037) asserting a combined claim in the amount of \$19,800.00. Based on a review of TPI's books and records, Scalfani's claim form, and supporting documents, the Receiver believes that he does not have a claim. Scalfani's claim form and TPI's records contain no evidence that Scalfani ever sent money to TPI. In addition, the supporting documents attached to his claim form suggest that he invested in a different viatical company named Liberte Capital Group, which is currently in

receivership in the Northern District of Ohio.¹ Accordingly, the Receiver objects to Claim Nos. A-03034, A-03035 and A-03037 and requests that the Court enter an order disallowing these claims in their entirety.

10. Gary L. Morris (“Morris”) filed a claim form that indicated he invested \$50,000.00 but did not state what he believed to be his net claim. Representatives of the Receiver have made numerous attempts to contact Morris and to date have been unsuccessful. Based on a review of TPI’s books and records, the Receiver believes that Morris has an allowed claim in the amount of \$50,000.00. Accordingly, the Receiver requests that the Court enter an order allowing Claim No. A-04670 in the amount of \$50,000.00.

II.

ARGUMENT AND AUTHORITIES

“[The] primary purpose of equity receiverships is to promote orderly and efficient administration of the estate by the district court for the benefit of creditors.” *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986) (citing *SEC v. Wencke (Wencke II)*, 783 F.2d 829, 837 n. 9 (9th Cir. 1986); *First Empire Bank-New York v. FDIC*, 572 F.2d 1361, 1368 (9th Cir. 1978)). The court is afforded broad deference in determining the case-specific procedures to be utilized for an orderly and efficient estate administration. *See, e.g., Commodity Futures Trading Com’n v. Topworth Intern., Ltd.*, 205 F.3d 1107, 1115 (9th Cir. 1999) (citing *S.E.C. v. Hardy*, 803 F.2d 1034, 1037-38 (9th Cir. 1986)). The procedures should be fashioned around the three general functions of a receivership: (1) marshalling of the assets subject to the receivership, (2) liquidating the assets for the benefit of the creditors and investors, and (3) remitting payment to the creditors and investors

¹ Representatives of the Receiver have made numerous attempts to contact this claimant and to date have been unsuccessful.

from the proceeds of the liquidation. *See, e.g., CFTC v. Chilcott Portfolio Mgmt., Inc.*, 725 F.2d 584, 586 (10th Cir. 1984) (discussing the appointment of a receiver to marshal assets, set up claim procedures, and eventually distribute any assets to the creditors and investors); *United States v. Vanguard Inv. Co., Inc.*, 694 F.Supp. 1219, 1228-29 (M.D.N.C. 1988) (discussing need to appoint receiver to perform the same under the direction of the court).

The procedures to be employed for the third function necessarily require the court to approve a procedure for the allowance, disallowance, and subordination of claims asserted in the receivership proceedings. *See id.*; *Transit Cas. Co. v. Selective Ins. Co. of Southeast*, 137 F.3d 540, 543 (8th Cir. 1998) (discussing claims allowed and disallowed by receiver during claims process); *Fishgold v. OnBank & Trust Co.*, 43 F.Supp. 2d 346, 348 (W.D.N.Y. 1999)(discussing resulting increase in trust corpus available to other creditors upon the disallowance of creditor's claim). Such a procedure is required to ensure, *inter alia*, not only that claims asserted in a receivership proceeding will only be paid after a review of the claim's validity of amount and enforceability, but also to bring finality to the administration of the estate. *See, e.g., S.E.C. v. Hardy*, 803 F.2d 1034, 1039-40 (9th Cir. 1986) (affirming trial court's enforcement of deadline to file claims as reasonable balance of creditors' rights and need for expeditious administration of a receivership proceeding).

Like other aspects of a receivership proceeding, the court is afforded wide discretion in fashioning the procedures to be employed for the allowance, disallowance, and subordination of claims. *See id.* at 1037-39. The court is even afforded discretion to employ summary procedures for this process, as opposed to plenary proceedings under the Federal Rules, so long as claimants, at a minimum, have fair notice and a reasonable opportunity to respond. *See McFarland v. Winnebago South, Inc.*, 863 F.Supp. 1025, 1034 (W.D. Mo. 1994) (citing *SEC v. Hardy*, 803 F.2d 1034, 1040 (9th Cir. 1986); *United States v. Arizona Fuels Corp.*, 739 F.2d 455, 458 (9th Cir.

1984)). Such procedures are not merely acceptable to the courts. Instead, they actually further the goal of providing an efficient resolution of the allowance, disallowance, and subordination of claims and likewise reduce litigation costs to the receivership. *See id.* at 1039.

Here, all of the notice and procedural safeguards discussed in the cases above have been met. A claim form, approved by the Court, was sent to all investors and reasonable time to complete and return the form was provided. This Motion provides the claimant a way to be heard regarding the merits of each claim in a cost efficient manner.

DATED this 3rd day of January, 2005.

Respectfully submitted,

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SPECIAL COUNSEL TO RECEIVER

CERTIFICATE OF SERVICE

This is to certify that on the 3rd day of January, 2005, a true a correct copy of the above and foregoing was sent via first class mail, postage prepaid, on the following and all persons listed on the attached service list:

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Exhibit “A”

Claim #	Investor	Amt of Invest	Net Claim Amt	Receiver's Proposed Claim
A-00397	Linda Zarzecki	\$20,150.00	\$31,000.00	\$20,150.00
A-00548	Milton W. Mueller	\$20,470.58	\$21,903.53	\$20,470.58
A-00549	Milton W. Mueller	\$20,000.00	\$23,600.00	\$20,000.00
A-00968	Marilyn W Keinath	\$18,261.38	\$21,548.42	\$18,261.38
A-00993	Ronald Seng Revocable Trust	\$100,000.00	\$156,000.00	\$100,000.00
A-01360	C. L. DeClue	\$10,000.00	\$12,800.00	\$10,000.00
A-02544	Carol A. Beerman	\$21,570.48	\$33,649.95	\$21,570.48
A-02717	Lellani Wleczyk	\$7,428.30	\$12,628.11	\$7,428.30
A-03198	Perry Martin Kagan	\$50,000.00	\$78,000.00	\$50,000.00
A-03199	Perry Martin Kagan	\$70,747.58	\$92,116.22	\$70,747.58
A-03200	Perry Martin Kagan	\$63,140.02	\$103,686.01	\$63,140.02
A-03760	Kiffayat Hussain	\$26,747.04	\$45,469.97	\$26,747.04
A-03761	Kiffayat Hussain	\$6,818.95	\$11,592.22	\$6,818.95
A-03762	Kiffayat Hussain	\$12,537.21	\$21,313.25	\$12,537.21
A-03763	Kiffayat Hussain	\$13,896.80	\$23,624.56	\$13,896.80
A-03764	Kiffayat Hussain	\$10,000.00	\$14,200.00	\$10,000.00
A-03765	Kiffayat Hussain	\$50,000.00	\$71,000.00	\$50,000.00
A-03766	Ruth Lacy	\$70,021.24	\$114,134.62	\$70,021.24
A-04173	Thomas Lee Ford	\$5,880.28	\$8,350.00	\$5,880.28
A-04275	Carol A Drzewiecki	\$7,000.00	\$8,575.00	\$7,000.00
A-04484	Ruth Elizabeth Cook	\$14,200.00	\$22,152.00	\$14,200.00
A-04738	Louis D. Cass	\$8,000.00	\$11,513.84	\$8,000.00
A-06078	Thomas Lee Ford	\$9,119.72	\$13,497.19	\$9,119.72